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IN THE MATTER of the Public Inquiries Act, R.S.A. 1970 C.296 and amendments thereto

AND IN THE MATTER of the Public Inquiry by A.M. Harradence, Q.C., pursuant to Order in Council 1295/73 dated August 21, 1973 into the alleged use of excessive force by Correctional Officers upon inmates of the Calgary Correctional Institution during the evening of July 17, 1973 and any other similar instances.

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P U B L I C I N Q U I R Y

Proceedings taken in the Club Room at the Jubilee Auditorium, Calgary, Alberta, commencing on the 1st day of October A.D. 1973.

Volume V

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OCTOBER 9, 1973

DEPOSITIONS TAKEN AT 10:00 A.M.

MR. PEACOCK: Mr. Commissioner, continuing on this morning I believe we have approximately eight more witnesses with respect to the incident of July 17th. If my scheduling is a little more accurate than it has been the last week I will expect that we will likely be finished this particular incident on Wednesday, that's tomorrow.

THE COMMISSIONER: Thank you, Mr. Peacock.

MR. PEACOCK: Call Mr. Coljee, please.

RONALD CHARLES COLJEE, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Your name is Ronald Charles Coljee?

A Charles, right, sir.

THE COMMISSIONER: Are you chewing gum?

A Yes, sir.

THE COMMISSIONER: Get rid of it.

MR. PEACOCK: Sir, you are presently employed at the Calgary Correctional Institute?

A Right, sir.

Q What's your position there?

A Correction Officer II.

Q And how long have you been employed at the Institute?

A Approximately seven years.

Q And were you so employed on July 17th, 1973?

A Yes, sir.

Q What shift were you on that day?

A Four to twelve, sir.

Q That's four P.M. to midnight?

A Right, sir.

Q And as a Correction Officer II on that shift, wh were your duties? Could you briefly tell us wh you were supposed to be doing that night?

A General supervision of staff and inmates, sir.

Q And where were you stationed?

A In the control room, sir.

Q That's the guard room?

A Right, sir.

Q And was Mr. Cater in charge of the entire operat that night?

A No, sir. Mr. Merriam was. Mr. Cater was second command.

Q I see. Now, sometime during the evening Mr. Mer got called away from the Institute or was taken as the result of another incident, is that corre

A Yes, sir.

Q And was Mr. Cater left in charge?

A Yes, sir.

Q What happened that evening, if you could tell us around 9:30, ten o'clock?

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A 9:30 to ten o'clock?

Q Yes.

A At approximately 9:40 Mr. Peterson who was in the South Wing called the control room and stated that all the inmates were gathering around one individual table on one side. So I proceeded to the South Wing. At approximately 9:50, I phoned Mr. Cater in the guard room and told him there was a ruckus in the West Wing and I was proceeding to the West Wing.

Q How did you find out about the ruckus in the West Wing?

A I could hear it, sir.

Q So you called Mr. Cater in the control room or the guard room?

A Right, sir.

Q And advised him that you were proceeding to the West Wing?

A Right, sir.

Q Did you go to the West Wing?

A Yes, sir.

Q What did you observe there?

A When I got there, sir, the lights were out. I told Mr. Dewar to turn the lights on and there was a lot of noise. There was beds back and forth, pounding on lockers, so on and so forth.

Q What else? Did you hear anything else?

A Just a bunch of shouting, sir.

Q All right. Can you tell me at that time what they were shouting?

A No, sir, because everybody was shouting at that time before the lights went on.

Q I see. Now, aside from you and Mr. Dewar was there anybody else there at that time?

A No, sir.

Q What did you do?

A I told Mr. Dewar to turn the lights on. He did so. I started to proceed down the wing. I noticed the radio was off. I had the radio put back on. We couldn't hear it anyway because of all the noise they were making. I then proceeded to walk down the east side of the West Wing. I got back to a certain point and I yelled to ask them what the problem was but they couldn't hear me.

Q What were they doing while you were walking down there?

A More or less yelling names and so on and so forth.

Q Were they yelling anything in general or were they yelling at you specifically?

A It was at me specifically. At Mr. Dewar specifically, yes, sir.

Q What were they yelling at you?

A Obscene language, sir.

Q Now, you made a tour right down the east side of the West Wing and came back, did you?

A I went about three-quarters of the way, sir.

Q What were you doing? Why were you in there? What was your purpose of being in there?

A To see if we could quiet them down, sir.

Q Did they reply to any of the comments you made to them or the questions you asked them?

A No, sir.

Q Could you see at any specific place in the wing where this noise was starting from or was there any particular place that it was being kept going?

A After observing, yes, sir.

Q What did you observe?

A We observed that the noise after -- when I was walking down the wing it would subside a little and it seemed to start from the east side of the wing up against the wall on the -- it would be the west side of the east side of the West Wing.

Q That would be along the middle partition, would it?

A Right, sir.

Q What happened? What did you observe?

A Well, in amongst there there was one empty bed. That bed would be moving up and down with the help of the inmates on either side. They were pounding on their lockers and the original starting seemed to

come from that area, sir.

Q I see. What did you do then?

A I left the lights on. The -- not all the lights, a certain part of the lights were left on so that we could observe. I went back into the cubicle with Mr. Dewar. We observed what was going on. I then phoned Mr. Cater and told him we needed more help in that West Wing.

Q What did you say to Mr. Cater, do you recall?

A Yes. I told him we needed more help, sir.

Q Did you explain why?

A I don't think I explained why, sir. I think it was obvious.

Q And what occurred then? There was still just you and Mr. Dewar down there, was there?

A Right, sir.

Q What happened then?

A After I called Mr. Cater, Mr. Lynch and Mr. Peterson arrived.

Q And they are both employees of the Institute?

A Right, sir.

Q What did they do?

A They reported to me and I put Mr. Peterson on the west side of the wing, Mr. Lynch on the east side of the wing and I stationed them in different points in the wing to observe what was going on and where

the trouble was coming from and so on and so forth.

Q And this is right down in the dormitory?

A Right, sir.

Q So Mr. Peterson ended up in the east side and Mr. --

A Lynch.

Q -- Lynch on the west side?

A Right, sir.

Q And did you go back into the wing?

A Yes, sir.

Q And what was the purpose of your going back there?

A Once again sir to observe and see if we could keep them quiet.

Q Did you succeed?

A No, sir.

Q What happened when you got in there?

A The name calling continued. The minute any of the officers including myself would pass a certain bed, the noise would start again where we could not see them at the time.

Q And what did you do?

A What did I do?

Q When you got in there with Mr. Lynch and Mr. Peterson?

A More or less just walked and observed, sir.

Q What did you observe? Did you observe anything you hadn't observed the first time you were in

there?

A No, sir.

Q What happened next?

A Next I noticed a few officers coming in and I was told to get the officers that were inside the wing behind the grill gate, security grill gate in the West Wing.

Q That's up by the cubicle?

A Which I did. Right, sir.

Q So did you do that?

A Yes, sir.

Q So you all ended up by the cubicle outside the grill gate?

A Right, sir.

Q What happened then?

A Then we discussed it and we decided if we removed the four people that seemed to be the instigators that this might quell the problem and it did.

Q Who was there in the control room when this decision was made? Or I'm sorry, who was behind the grill gate at the head of the wing when this decision was made?

A Mr. Schlegel was there. Mr. Dewar was there. I was there. Mr. Peterson was there. Mr. Lynch was there and Mr. Boughton was there and there was a couple more coming in at the time. Mr. Uitbeyerse

I think was another one.

Q Did you make the decision as to who the four trouble-makers were or was this discussed and a consensus reached?

A It was discussed and a consensus was reached, sir.

Q And what were the four inmates' names, do you recall?

A Inmate Sims, Spooner, Watson and Winters.

Q So the decision was made to remove these fellows from the wing?

A Yes, sir.

Q Now, what happened then?

A We went down and we did in fact remove the bodies from the wing, sir.

Q Did you take anything by way of weapons in with you?

A Personally not me, no, sir.

Q Did some of the others?

A There was billy clubs, yes, sir. Mr. Cater arrived with the gas gun and he was on the east side of the West -- I'm sorry, on the west side of the wing.

Q And you weren't given a billy or anything by way of a weapon at that time?

A No, sir.

Q What did you do? When these weapons were distributed, were they given out to each of the guards at the West

Wing or did you have to go back to the guard room and get these weapons?

A I went back to the guard room and got them, sir.

Q Did you get the weapons and bring them down?

A Yes, sir.

Q And who took them from you?

A Well, I think the majority of the -- the majority of the officers there took them, sir.

Q I see. So you were the fellow who was standing there and handing them out to the various people?

A Right, sir.

Q Were you instructed by someone to do this?

A I was instructed to go and get them sir, not to issue them out.

Q I see. Who were you instructed to go and get them by?

A Mr. Schlegel.

Q And when you got them, who instructed you to give them out?

A Nobody, sir.

Q You became the distributor?

A Right, sir.

Q And you didn't keep one for yourself?

A No, sir.

Q Did all of the personnel at the Institute go into the wing itself at the same time?

A You mean all the people that were in the West Wing?

Q That's right.

A All the officers?

Q Yes.

A No, sir.

Q Who went in?

A Mr. Schlegel, Mr. Uitbeyerse, myself, Mr. Peterson, Mr. Lynch.

Q You said Mr. Cater went to the west side?

A Right, Mr. Cater.

Q With the gas gun?

A Right, sir.

Q Did you go in?

A Yes, sir.

Q And what in fact did you do when you got in there?

A I went in and I went directly to inmate Winters' bed and told him he was being removed from the West Wing.

Q And what did he say to you?

A "What for? I never did nothing. I am innocent".

Q What did you say to him?

A I said "Come on, let's go".

Q What happened?

A Got up and went.

Q Did he?

A Yes.

Q Did you have to use any force to get him out of bed?

A Not force, sir. I didn't -- guiding force, grabbing him by the arm and saying "Come on".

Q Did you strike him at all?

A No, sir.

Q Now, you I take it accompanied Winters up to the front and through the grill gate, did you?

A Yes, sir, Winters and Watson was also in that vicinity with me, sir.

Q Are you the one that got Watson out of bed?

A No, sir. Watson -- the next -- after, when I had Winters out of bed, the next thing I seen was Watson. He had a pair of handcuffs on.

Q Do you know who was with Watson?

A Mr. Uitbeyerse, I think, sir.

Q You then led Winters up to the front then, did you?

A Right, sir.

Q And Watson and Winters, were they the only two that went up to the front with you or did the other inmates go up to the front with you as well?

A They never went up with me, no, sir. Mr. -- or Watson and Winters were the only ones that were with me at the time.

Q And did you observe any activity around Mr. Sims'

bed?

A No, sir. I was pretty occupied with Winters.

Q I see. You didn't observe Sims getting up?

A No, sir.

Q Did you observe Sims being led out?

A No, sir.

Q Now, when you got to the front with Watson and Winters, did other officers arrive with Sims and Spooner?

A I presume they must have, sir, because Sims and Spooner were there, yes.

Q Were they there when you got there or did they come there after you were there?

A I think they were there when I got there, sir.

Q And I take it it ended up with these four inmates just outside the grill gate beside the guard's cubicle?

A No, sir, out in the hallway.

Q I see. Did you lead Winters and Watson right out into the hallway?

A I never led them, sir. I was behind them.

Q I see. Well, did you encourage them out to the hallway from behind?

A Yes, sir.

Q And did you then follow them into the hallway?

A Yes, sir.

A Yes.

Q Did you have to use any force to get him out of bed?

A Not force, sir. I didn't -- guiding force, grabbing him by the arm and saying "Come on".

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A I never led them, sir. I was behind them.

Q I see. Well, did you encourage them out to the hallway from behind?

A Yes, sir.

Q And did you then follow them into the hallway?

A Yes, sir.

Q Did you help escort them down to the cell block?

A Yes, sir.

Q Now, when you got out in the hallway, what happened there? If you could just describe in your own words what happened. Did you stop in the hallway?

A Yes, sir, outside the west wing.

Q And what happened there?

A We just -- I had Watson and Winters up against the wall and then I said "That direction, let's go and move it". Words to this effect.

Q Did they comply with your request?

A Yes, sir.

Q Where were Spooner and Sims at this time?

A I think they joined them on the way down the hall, sir.

Q I see. At this point when you were in the hall in the West Wing, did you observe Mr. Schlegel strike Mr. Sims with a billy club?

A In the hallway?

Q Yes.

A No, sir.

Q Did you observe Mr. Schlegel strike Mr. Sims at any time with a billy club that evening?

A Strike?

Q Yes.

A No, sir. Nudge, yes, sir.

Q What did you observe, pardon me?

A Nudge, yes, sir.

Q Where did this occur?

A In the -- going into the isolation cell, sir.

Q So that would be after they got down the hall?

A After they got down the hall?

Q Yes.

A Yes, sir.

Q In the hallway, did you use any force on Watson and Winters to get them moving?

A No, sir, I couldn't keep up with them.

Q Were they running?

A Yes, sir.

Q What about Sims and Spooner, did you see them go down the hall?

A Yes, sir.

Q Did you use any force on them?

A No, sir.

Q Did you observe any of the personnel of the Institute using force on any of these four gentlemen on their way down from the West Wing to the isolation block?

A No, sir.

Q You didn't see Mr. Schlegel strike Mr. Sims or strike Mr. Watson?

A No, sir.

Q I'm sorry, Mr. Winters?

A No, sir.

Q When you got down to the isolation cell, what happened down there?

A We searched -- well, we made them remove their clothing. We searched their hair. Removed the false teeth from inmate Winters and put them into the cell, sir.

Q I see. You put them all in one cell block?

A Yes, sir. Pardon me?

Q You put them all in the one cell?

A Right, sir.

Q At the time that you were down waiting to put them in the cell while they were taking their clothes off and their teeth out and things, did any of you at that time strike any of the inmates?

A Not to my knowledge, sir.

Q Did you see anyone strike an inmate with a billy club that night?

A Strike?

Q Yes.

A No, sir.

Q Did you see any of the inmates strike any of the guards?

A No, sir.

Q That night. You say that you saw Mr. Schlegel nudge Sims with a billy club?

A No, sir. I had seen Mr. Schlegel nudge all four.

Q I see. Was this on their way into the cell?

A Yes, sir.

Q What did he do with his billy club?

A More or less "Come on, get in there".

Q Did you see him strike them at all?

A No, sir.

Q With a striking motion?

A No, sir.

Q Did you see any of the guards kick any of the inmates on their way into the cell?

A No, sir. I seen at the grill gate outside the guard room, I seen a foot being raised but whether it contacted or not I don't know, sir. I was too far behind.

Q Do you remember who that foot was on?

A Yes, sir, Mr. Addinall.

Q I see.

THE COMMISSIONER: Mr. who?

A Addinall, sir.

MR. PEACOCK: And this was at the grill gate just by the guard room on the way down to the isolation?

A On the west side of the guard room, yes.

Q And you saw his foot come up but you don't know whether it landed or not?

A No, sir, I was too far behind.

Q At this point were the inmates waiting to go through the grill gate?

A Not waiting, no, sir. They were on their way through it.

Q Had they had to stop to get through it?

A No, sir.

Q Now, after these gentlemen were put into the isolation cell, did you return back to the West Wing or to the guard room?

A I went back to the West Wing first and then to the guard room, sir.

Q How long did you wait in the West Wing?

A Oh, I would say approximately five minutes, sir.

Q At that time when you were there during that five minutes, did you observe that the yelling and locker banging had continued?

A No, sir. There was not a murmur.

Q Were the lights and the radio then put out?

A Yes, sir.

Q Then you returned to the guard room?

A Right, sir.

MR. PEACOCK: Those are all the questions I have. Would you answer other Counsel, please.

CROSS-EXAMINATION BY MR. STILWELL:

Q Did you know that there were knives in there on the night of July 17th?

A I had been aware of the fact, yes, sir.

Q When you went in there, you went in there with the knowledge that somebody, at least one person in there had a knife?

A Yes, sir.

MR. STILWELL: Mr. Commissioner, I have a large number of questions to ask this witness but they are not strictly relevant to the July 17th incident. I therefore respectfully submit that he could be excused on the basis that he be returned when we get to the more generalized Inquiry.

THE COMMISSIONER: Certainly, Mr. Stilwell.

MR. STILWELL: And on that basis, I have no further questions at this time.

THE COMMISSIONER: Thank you.

MR. PEACOCK: I think we can agree that any of these witnesses are subject to recall on any point and I think if there's doubt that a witness is to be called, Counsel can speak to me and we will see that they are subpoened and brought.

THE COMMISSIONER: This is an Inquiry, Mr. Peacock and we can certainly relax some of the more rigid rules.

CROSS-EXAMINATION BY MR. LAING:

Q Mr. Coljee, you said that you knew that at least one of the inmates had a knife with him in the cell on

that evening. Did you have a suspicion of this or did you in fact know it to be true?

A I was warned that there could be knives in the West Wing, sir.

Q But nobody knew for sure? It was just a suspicion?

A I would say so, sir, yes.

Q All right. Now, as I understand your evidence it was Mr. Dewar, Mr. Lynch, Mr. Peterson and yourself that were in that area at the outset, is that correct?

A We were there prior to the rest of the officers getting there, yes, sir.

Q Right. And you had these gentlemen stationed at different points in that area?

A Right, sir.

Q Could all four of those individuals see all of the four inmates whom you ultimately removed from that area?

A Three of the four, sir.

Q Three of the four. Who couldn't see them?

A Mr. Peterson couldn't see them.

Q Mr. Peterson couldn't. And during the time when you had these three individuals stationed in that area, you were wandering around in the general location of the entire area, is that correct?

A Right, sir.

Q Now, after you had done your wandering in that area, you came back behind the grill and the four of you decided who the four inmates were to be removed from the area?

A We were called back, sir and we discussed who we figured were the basic troublemakers, yes.

Q Were you the senior officer in charge at that particular point, sir?

A When I went -- when we were discussing it?

Q When the decision was made --

A No, sir.

Q As to the four. Who was the more senior?

A Mr. Schlegel, sir.

Q Mr. Schlegel was there at that time, was he?

A Yes, sir.

Q He had joined the four of you after your initial tour?

A Right, sir.

Q Of the area. I see. And was it a decision of the five of you that these four would be removed?

A I can't honestly say it was the five of us, but it was a decision between Mr. Dewar, Mr. Schlegel and myself, sir.

Q I see. And who was the one that made the decision to get the weapons from the guard room?

A I would say it would have to be Mr. Schlegel be-

cause he was the one that sent me down to get them.

Q When the decision was made to get the weapons from the guard room, did you already have a suspicion at that time that there were knives in that area?

A Yes, sir.

Q You knew at that point?

A I had a suspicion, sir.

Q Now, after you had removed these four inmates from the cell block area and out into the hallway, were all four of these individuals in your view at all times?

A No, sir.

Q I see. At what period would some or all of them be out of your view?

A Two of them were definitely out of my view going from where they were sleeping out into the hallway. And until they all started proceeding from the hallway to the cell blocks.

Q Which two would those be?

A Out of my view?

Q Yes.

A I didn't see inmate Sims and I didn't see inmate Spooner.

Q But you had Watson and Winters in your view at

all times?

A Right, sir.

Q Would there have been times after you got out into the hallway where Spooner and Sims would be out of your view?

A After we got into the hallway?

Q Yes.

A Yes, sir, because I -- do you want me to continue?

Q Yes, if you would.

A Okay. I had the two inmates up against a different wall than the other two were, sir.

Q And for how long would they have been out of your view?

A You mean total length of time?

Q Yes.

A Oh, I would say three to four minutes.

Q I see. Now, you have indicated as well in your evidence that you saw Mr. Schlegel nudge all four of the inmates?

A Nudge, yes, sir.

Q Can you tell me what you mean by that term?

A Well, just you know "Let's go, get in".

Q Where was he poking them with the billy club? What part of their body?

A I would say, they were going in, I would say on the side maybe, on their sides.

Q I see. Was this a repeated nudging?

A Repeated on an individual, sir?

Q Yes.

A No, sir.

Q So he would nudge each of them once just to get them moving?

A I wouldn't even suggest that he maybe nudged all of them, sir. He might have but I never --

Q Oh, I had understand your previous evidence that you had corrected Mr. Peacock when he suggested Schlegel nudged only Sims. You said "No, he nudged all four"?

A Well, yes, sir as they were going into the cell.

Q The isolation cell?

A Right, sir.

Q I see. Did he nudge them at any other time?

A Not to my knowledge.

Q Was Schlegel the only one with a billy club at that time?

A No, sir.

Q Who else had a billy club?

A I can't really remember, sir. I would say possibly Mr. Lynch had one. Mr. Boughton maybe, I don't know.

Q Mr. whom?

A Boughton.

Q And your evidence is that the only nudging you saw

of any of these four inmates was just as they were entering the isolation cell?

A Nudging, yes, sir.

Q And did you see any of the guards use any weapon on these individuals at any other time other than at the isolation cell?

A No, sir. But like I also stated, sir Watson did have handcuffs on so one of the officers must have put the handcuffs on Watson, sir.

Q These cuffs were behind his back?

A No, sir, I don't think so.

MR. LAING: I have no further questions, thank you.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions sir.

MR. PEACOCK: If I may ask one more question.

RE-EXAMINATION BY MR. PEACOCK:

Q Do you recall specifically what time you were called to go to the West Wing that night from the South Wing?

A I wasn't called, sir. I went on my own.

Q Oh, you just heard the disturbance and went?

A Yes, sir. I was in the South Wing with reference to another disturbance sir, at the time.

Q And you heard the disturbance and went to the West Wing?

A Yes, sir.

Q Do you recall precisely what time that was or did you have a chance to observe a clock?

A I phoned Mr. Cater in the control room, sir at approximately ten minutes to ten that evening. And then I immediately proceeded to the West Wing so it would be give or take thirty seconds, sir.

Q Around ten to ten?

A Right, sir.

Q And at the time you phoned Mr. Cater, you had heard the disturbance start in the West Wing?

A Right, sir.

MR. PEACOCK: That's all I have, thank you.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Coljee, you were in the South Wing at 9:40 that night?

A Approximately, yes, sir.

Q And you say that you observed rather an unusual incident there and the inmates were gathered around the one table at that time?

A No, sir. I never observed it. Mr. Peterson who was in charge of the South Wing called me or called the guard room and stated that this was going on. That's when I proceeded from the guard room to the

South Wing.

Q To the South Wing. Was the gathering still intact when you got there?

A It had just broken up, sir.

Q I take it lights were out at 9:40 in the South Wing, were they?

A No, sir. He was in the process of turning all the lights out at that time with the exception of the washroom lights.

Q Why was he concerned about the gathering around this table?

A Because we had had previous incidents that evening in the South Wing where we had also been called into the South Wing.

Q What type of incidents?

A One inmate was attacked by two other inmates. Other inmates were scared in the South Wing at the time. They were coming up and Mr. Merriam was interviewing them with reference.

Q Is the South Wing dormitory style, dormitory?

A Yes, sir.

Q You say one inmate had been attacked by two others?

A Right, sir.

Q Was he injured?

A No, sir.

Q I take it that attack ceased on its own or was it broken up?

A No, it ceased on its own, sir.

Q It wasn't a very serious one?

A No, sir.

Q More or less just, was it something that flared up on the spur of the moment or do you think it was planned or do you know?

A I don't know, sir.

Q Now, what about the other one? You mentioned another incident. What was that?

A At the South Wing, sir?

Q Yes.

A Well, the one incident, at approximately eight o'clock we were called down to the South Wing because all the inmates were gathered around one individual bed. Mr. Merriam and I proceeded to the South Wing.

Q Umhm.

A When we walked in, the group broke up. At that precise moment, Mr. Cater phoned us from the control room and said he had trouble at the cell block and could we return to the guard room which we did.

Q Now, the trouble that he was referring to, was that in the West Wing?

A No, sir, cell block.

Q So you really had three things going on that night, did you? The South Wing, the cell block and the West Wing?

A Right, sir.

Q All right. Now, do you know the person whose bed the inmates were gathered around in the South Wing, what was he convicted of, do you know?

A No, sir, I don't.

Q Did nobody find out?

A I never, sir. No, sir. We were too busy preoccupied from then until twelve o'clock, sir.

Q And you never found out since then?

A No, sir.

Q What broke up the gathering around this individual's bed, sir?

A I think it was just the fact that Mr. Merriam and myself walked in, sir.

Q Were the lights out at that time?

A No, sir. This was eight o'clock in the evening.

Q How many beds in that dormitory?

A Approximately thirty, sir.

Q And how many men on duty? Is there a cubicle there?

A Yes, sir. The South Wing is divided into two parts, the east and west side. Each one holds approximately thirty people.

Q I see.

A One side is used strictly for day paroles and such. The guard's cubicle is in between both of them where he can observe both sides.

Q Were there enough men on duty to handle say a similar disturbance in the South Wing, one similar to the West Wing?

A No, sir.

Q And certainly not if trouble continued in the cell block?

A No, sir.

Q Would you say you were badly understaffed that night?

A Yes, sir.

Q Now, when you got to the West Wing, Mr. Cater I take it you and Lynch and who's the other officer that went in?

A Mr. Peterson but not when I got to the West Wing, sir. I was -- Mr. Dewar and myself were by ourselves for a good twenty-five minutes.

Q Was the disturbance continuing during that twenty-five minutes?

A Yes, sir, in spurts.

Q In spurts. What do you mean by that? Would it be absolutely silent on one occasion?

A When I walked down past the inmates it would sub-

side.

Q Umhm.

A Because naturally they didn't want me to see who was --

Q No. And as soon as you went by, it would pick up again, is that it?

A Right, sir.

Q Did you order the inmates to subside?

A I tried to ask them what the problem was, what they wanted but they couldn't hear me, sir, with all the noise going on. Also sir when I did call Mr. Cater at the guard room a couple of the inmates had said you know "Let's go to sleep. We are tired of this". And then boots and cups and everything else were flying at innocent inmates, sir. And the reason I phoned Mr. Cater --

Q You say boots and cups were flying at the inmates who wanted the matter to subside?

A Right, sir.

Q Are you sure of that?

A Yes, sir.

Q Were they struck with any of those?

A No, sir.

Q Now then, you say as a result of a consultation, you decided that four inmates should be removed, Spooner and Sims, Winters and Watson?

A This is correct, sir.

Q Tell me, did you make that decision? Did you help make that decision?

A Yes, sir.

Q Was that decision made on what you observed or from the reputation of the inmates?

A From what I observed that night, sir.

Q The reputation of the inmates you selected had nothing to do with it?

A No, sir.

Q Are any of them known as troublemakers?

A I personally had trouble with two of them when I was in charge of outside work parties.

Q Who?

A Winters and Watson.

Q And what is the reputation to your knowledge of Spooner and Sims?

A I have had personally no problems.

Q No problems. Now then, did you decide before you went into the dormitory to remove the inmates who would take who?

A No, sir. I -- no, sir.

Q And I believe you removed Winters, was it?

A Right, sir.

Q Why did you pick him? How did it come about? Was there no organization before you went in as

to who was going to take who?

A Not really, sir. We knew who the four were so we went down and the four -- at one point I remember they were going to take one of the inmates that shouldn't have been taken and I definitely said "No, that is not the right man".

Q So then it was rather once you got in that general area, I take it the four inmates you did remove were all located in one area, were they?

A Yes, sir.

Q So once you got there, it was just a matter of chance as to who took who?

A Yes, sir.

Q Do you think that's good organization?

A No, sir.

Q Now then, I take it that Winters gave you no problem?

A No, sir.

Q And you had no weapon?

A No, sir.

Q And you didn't see what happened to any of the other three? How they were removed?

A I didn't watch them, sir, no, sir.

Q You had your own problem?

A Right, sir.

Q Now then, why was the clothing -- why were they

stripped before they were put into the isolation cell?

A It's practice, sir, because they can hide foreign obstacles inside their clothing.

Q May I ask you this. All they had on was a pair of shorts. You could search them pretty carefully, couldn't you?

A You mean with the shorts on?

Q I don't really care whether they are on. I mean, why weren't they allowed to wear their shorts when they went back in?

A When they went back into the isolation cell, sir?

Q Yes, sir.

A They -- it's common practice sir to remove the clothing, search the clothing and search the body.

Q Well after you have done that, why couldn't the shorts be given back to them?

A They usually are, sir.

Q Why weren't they in this case?

A I don't know, sir. Once again after we finished putting them down in isolation cells, I was preoccupied with another occurrence.

Q I was just wondering if you could assist this Inquiry as to why they were sent in naked?

A Why?

Q Yes.

A It's practice, sir.

Q Well, is that any time a man is put in isolation, is he stripped?

A Yes, sir.

Q And left?

A He's not left, sir. He's put into the isolation cell. Then once his clothing is searched, it's given back to him.

Q Given back to him?

A Yes, sir.

Q That would only take a few moments to search the clothing?

A Right, sir.

Q Then it's given back to him?

A Yes, sir.

Q Was the clothing given back to them in this case?

A I don't know, sir.

Q You don't know?

A No, sir. I was not there.

Q Well, when did you leave? Immediately after they were put in?

A Right, sir.

Q Do you know who searched the clothing?

A No, sir, but I could suggest maybe Mr. Baron who was in charge of the cell block.

THE COMMISSIONER: Thank you. Any questions

arising out of that?

MR. LAING: Mr. Commissioner, do we assume that the only clothing the prisoners were wearing on their trip from the cell block to the isolation block was their shorts?

THE COMMISSIONER: Well, Counsel, this is your first appearance?

MR. LAING: Yes, it is, sir.

THE COMMISSIONER: And the evidence has gone before that one could make that assumption.

MR. LAING: Thank you, sir.

RE-CROSS-EXAMINATON BY MR. STILWELL:

Q You were not the senior man in charge of this operation, were you?

A No, sir.

Q There were at least two people there senior to you when these people were put in isolation, weren't there?

A Yes, sir.

Q Tell me, in the South Wing is there a glassed-in cubicle?

A Yes, sir.

Q Can you describe the location of it and what view it affords of the wing?

A I am sorry, sir?

Q Is there a problem with visibility out of the cubicle

in the South Wing?

A Yes, sir.

Q Can you describe that, please.

A Well, if you were looking onto the east side of the South Wing, there's a definite view problem because the -- it's not completely in-glassed in and if you were sitting at the desk you have to be observing two gates that are handled, security gates that are handled by the South Wing and you cannot see to the east side and your view is obscured because of the makeup of the actual windows in the South Wing going into the west side, sir.

Q So that even if you are in the cubicle and on duty, there can be things happening in the South Wing that you can't see?

A I would say so, sir, yes.

RE-EXAMINATION BY MR. PEACOCK:

Q Perhaps for my edification, Mr. Coljee, would you look at the middle map that's on the wall and if I can guide you, I believe on the left lowerhand side would be the West Wing, is that correct?

A Yes, sir.

Q And on the right hand side would be the East Wing?

A Right, sir.

Q Would you point out the South Wing?

A Right here, sir.

Q I see. And that's divided into two dormitories of approximately thirty people?

A Thirty beds, yes, sir.

Q Thirty beds each, and one cubicle in the middle to oversee both of these?

A Right, sir.

MR. PEACOCK: Thank you.

THE COMMISSIONER: Thank you, Mr. Coljee.

MR. PEACOCK: Thank you, Mr. Coljee.

(Witness retires)

MR. PEACOCK: Call Allan Lynch, please.

ALLAN LYNCH, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Lynch, you are an employee at the Calgary Correctional Institute, is that correct?

A Yes, sir.

Q And what is your position there?

A C.O.1 Correction Officer.

Q And how long have you been employed at the Institute?

A Oh, about sixteen months.

Q I see. Were you employed there on July 17th, 1973?

A Yes, I was.

Q Do you recall a disturbance arising in the West

Wing that night?

A Yes, I do.

Q Could you tell us how you became aware of this and what you did, please.

A On the night of the 17th of July I was employed in the East Wing.

Q And what were you doing in the East Wing?

A I was the officer in charge of the East Wing that night.

Q I see.

A At approximately ten thirty I was -- went for my coffee break. So I proceeded for my coffee and had to go by the West Wing. I could hear there was a commotion going on in there. I proceeded up to the front to have my coffee. Finishing my coffee break and coming back past the guard room, Mr. Cater was waiting for me.

Q Do you recall whether the time was 10:30, did you say?

A Yes, sir. I remember exactly it was 10:30 because I hadn't had a break since five thirty when I had my lunch break. And I was going to give Mr. Cater five minutes, and I was going to phone him and ask what happened to my coffee break. I was still short one coffee break. I didn't know what was going on at that particular time. I am way over in the far

end of the building so I didn't know what was going on until I got down to the guard room and Mr. Cater informed me.

Q I see. What time was that that you finished your coffee break?

A About 10:45.

Q I see. And at that point you were coming by the guard room and Mr. Cater spoke to you?

A Yes, he did.

Q What did he say to you?

A Well, Mr. Peterson was with me also from the South Wing. And he said "The two of you, we got a commotion in the West Wing. Here is a flashlight and here is a billy. Put this in your pocket and both of yous report to the West Wing. I will be there in a few minutes".

Q And this was Mr. Cater, was it?

A Right.

Q When you left the East Wing, who did they put in charge in your place?

A Mr. Cook replaced me.

Q And do you know who replaced Mr. Peterson in the South Wing?

A Mr. Lipton from the cell block.

Q So Mr. Cater gave you a flashlight and a billy and said "Proceed to the West Wing"?

A Right.

Q Did you do that?

A Yes, I did.

Q What happened when you got there?

A He stated -- told us to stay out in the hall and stay out of sight and out of the way and just stay there until, see how this thing is going to develop.

Q Who told you that?

A Mr. Cater.

Q All right.

A And so we stayed there for a couple of minutes. Then Mr. Coljee came out and told me to proceed to the far end of the West Wing and stay down there.

Q And did you do that?

A Yes, I did.

Q What did you observe was going on in the West Wing before you went in there?

A Didn't get enough time to observe. They sent me right in right away and I just walked right in. The lights -- the lights were, were out at that time except the light over the shower. Mr. Cater was around the guard room entrance and Mr. Dewar was in the cubicle. When I went in there, there was quite a bit of talking and yacking and laughing. Also when I went in there, they were trying to, in my words, I would say trying to entice Coljee to

come on down. The words they said --

Q What were they saying to him?

A They were calling, swearing at him and everything else. Also they said -- just the words now, at least directing this at me. That I had more guts than Coljee had for going down in there. Also another threat was when I come across the grill was "Anybody that comes in here is going to get killed" or words to this effect.

Q Did you see who yelled that?

A No, I did not.

Q Now, you proceeded down the West Wing, is that correct?

A That's correct.

Q And you got to the far end?

A That's right.

Q Did you position yourself on the east side or the west side?

A On the east side of the West Wing on the very bottom.

Q As you were there, did you have your billy in your hand?

A No. I was instructed to put the -- Mr. Schlegel instructed or I overheard this conversation, instructed Mr. Cater to tell everybody to keep them in their pocket and not to be flashing them around and not to use them unless it was necessary.

Q You heard Mr. Schlegel say that to Mr. Cater?

A I overheard this, yes.

Q When you got down into position on the east side of the West Wing on the far end, what did you observe happen then?

A Well, once I was on the far end at the bottom and Mr. Cater was up at the other end, and Coljee was on the other end, as long as I was down in there, it wasn't too bad. I mean outside of they were yacking and whispering and comments of this nature.

Q What occurred?

A Nothing occurred outside of they were yacking and shootin' some abuse at Mr. Coljee and at us all in general.

Q I see. Well, was that the end of the incident?

A No.

Q What happened then?

A I was down -- kept down in there for approximately maybe five or ten minutes. It seemed like that long anyway and Mr. Coljee withdrew me from there and brought me back in behind the grill and we closed up the grill. By that time we were waiting for some more officers to be called in from another shift.

Q When you got called back and went outside the grill, were any of the guards left in the dormitory itself?

A No, we all withdrew.

Q When you left, did you notice that the noise had subsided or was it carrying on?

A Still carrying on.

Q What noises were you hearing after you got outside the grill gate?

A They went back to their hollering and whistling and screaming and rocking their lockers. They were making quite a -- quite a racket.

Q How long did you wait outside the grill gate for the other personnel to arrive?

A Approximately fifteen minutes to half an hour.

Q And when they arrived, what happened?

A When Mr. Schlegel and Coljee, Cater, there was some more senior staff arrived, Mr. Schlegel took over the leadership I guess of what was going on. The noise did not subside and they kept it up and when we got enough men to come in, we were all going in and taking some out.

Q Were you informed who the four were going to be?

A No. I could hear them talking in the guard room, in the cubicle but I didn't know who they were talking about.

Q They were just going to use you, were they?

A Yeah, we were just waiting to --

Q What happened then?

A So they brought in some more officers from -- we were short all over that night so they called in some more officers from the other shift. I believe we had ten to twelve officers. They said "We're going in. We are taking four out".

Q Did they tell you what your job was to be when they went in there?

A They said "We'd better watch ourselves and make sure if we get problems and if they are going to turn on us, we'd better get the heck out of there and get out of there quick, we'll all go in and we're going in and we are going to stay in and see if we can get these four out of there.".

Q Did they point out to you who the four were going to be?

A No, not to me directly.

Q What was your job supposed to be in there? Were you told?

A We were all going in in force to -- we were going to take about ten or twelve of us to go in there.

Q What I am getting at, Mr. Lynch, what was prohibiting you from going down the other side and grabbing four others? Were you told where to go? Were you told what to do?

A No. I was to watch on the -- on the other side and make sure that nobody made any moves from behind us.

Q All right. Who told you to do that?

A Mr. Cater.

Q And what are you talking about, the other side?

A Well, when you go on the east -- there's four rows of beds. And the row we went down was -- was the beds on the east side, on the west side and plus the side that the said inmates were in.

Q I see. So you went down that side, did you?

A Yeah. We went down more or less on this kind of a formation and my -- I was on the left side.

Q I see.

A Watching the ones behind us.

Q So you went down on the east side of the west wing?

A Right.

Q And where did you end up? Did you go right down to the far end?

A No. We went to about approximately the middle I would say.

Q And what was your job when you got there?

A They were getting them out of bed. I was watching the ones on the other side.

Q What do you mean the other side? The ones on the very east side?

A The ones on the very extreme east side.

Q The ones along the wall with the window?

A Right.

Q So that you would have been watching that bank and they would have been taking the four inmates out of the bank just beside you?

A Right.

Q Opposite, across the alleyway from those gentlemen?

A Right.

Q What happened? Did you observe them take these boys out of bed?

A I was mostly, had my -- to my -- it was over my shoulder on my right side. I seen four bodies coming out, take the bodies. I was watching, more concentration on the other side.

Q I see.

A To make sure everybody stayed in bed.

Q And did they stay in bed?

A No other movements.

Q I see. And you say your back was primarily to the guards taking these four gentlemen out of bed?

A I would say I positioned myself on my right shoulder, yes.

Q Did you observe at any time any of the guards striking any of these inmates as they were getting them out of bed?

A I never seen nothing. They were moving pretty

fast.

Q I see. Did you hear any whacks as if somebody was being struck by something?

A No, I did not.

Q Did you observe Mr. Schlegel getting the inmate Sims out of bed?

A Mr. Schlegel and Mr. Boughton, they were hauling bodies out of bed.

Q I see. Did you observe that? Did you see them taking them out at all?

A Yes, I seen them taking the bodies out of bed.

Q Did you see specifically Mr. Schlegel take Mr. Sims out of bed? Do you recall that?

A I don't know which inmate it was. I seen them taking the bodies out of bed.

Q I see. Did you see Mr. Schlegel strike any of the people he was taking out of bed?

A No, I did not.

Q Now, when they got them out of bed, what happened?

A We got them out of bed and we just kept them in -- brought them into, with our ranks and we withdrew. They withdrew the inmates and some of the officers right out of the wing and I stayed in the wing at the wash end, at the end of the washroom. And Mr. Cater was on the far -- on the far side, on the right hand side. I stayed in that position there

until Mr. Cater -- we got Mr. Cater withdrew.

Q All right. Now, did you see them bringing the four inmates up to the front of the dormitory? What were you watching on the way up there?

A I was watching the inmates.

Q You were backing out, were you?

A We were backing out.

Q And when you got to the front, you waited inside the dormitory until Mr. Cater got to the grill gate?

A Yes. And we stayed in there oh, say roughly or approximately maybe a couple of minutes later after they got them out.

Q Did you observe these four inmates when they got removed down to the cell block?

A No, I did not.

Q So you remained in the dormitory. Then you came outside the grill gate and the grill gate closed?

A Yes.

Q Did you stay down in the West Wing?

A I stayed -- I never got out of the West Wing until approximately eleven forty-five.

Q During the time after these four inmates left until 11:45, did you hear any further yelling and banging of lockers?

A It subsided quite a bit after we took the four

out.

MR. PEACOCK: All right. Those are all the questions I have. Would you answer other Counsel, please.

CROSS-EXAMINATION BY MR. STILWELL:

Q I would just like to check the times with you,. Mr. Lynch, because I think you are an hour out. Wasn't it 9:30 when you went for coffee or 10:30?

A Ten thirty, sir.

Q So you didn't get into the West Wing until what time?

A About quarter to eleven.

CROSS-EXAMINATION BY MR. LAING:

Q Mr. Lynch, Mr. Cater gave you a billy club and a flashlight and told you to go down to the West dormitory?

A That's correct.

Q And when you went into the West dormitory itself, where did you leave your billy club?

A He gave it to me in the guard room. It was stuck in my front left -- my front right pocket.

Q You had it with you though while you were in the dormitory, is that correct?

A Right.

Q When you walked down to the end of the east side of that dormitory, could you see either Sims, Spooner,

Winters or Watson?

A No, I -- I didn't know, know them at that time.

Q At any time that you were in there, did you see these four individuals?

A I don't believe so. I hadn't -- I don't work in the West Wing too much. I haven't been in there too much so I couldn't --

Q Do you know these individuals or did you know them?

A I know Sims and Spooner. I have no doubt about those two. I know them very well.

Q Watson and Winters you are not certain of?

A I know them now but I did not know them too well at that time.

Q When you withdrew and came back to the guard room prior to the additional help arriving --

A I did not withdraw to the guard room. Just to the -- we stayed right at the West Wing cubicle.

Q Okay. But that was back from where you had been at the end of the wing?

A Right.

Q For some time. Who were the individuals who were making the decisions as to which inmates would be withdrawn?

A Mr. Schlegel was the officer in charge I would say. He was the senior man.

Q Were there other officers with him in the guard room

at that time?

A Beg your pardon?

Q Were there other officers with him in the cubicle at that time?

A Yes, Mr. Cater, Mr. Coljee were the first ones there, were the ones on shift. Mr. Schlegel was called in. He was the senior officer present. He took command of the situation. Mr. Boughton was called in and he joined. I would say about, approximately all the senior officers were called in.

Q Did they consult you as to what you might have observed prior to making the decision as to who the four would be?

A No. Mr. Coljee, Mr. Cater and Mr. Dewar were officers present there before I got there and were more informed than I was I would say.

Q Did you have any part in removing any of these four individuals?

A No.

Q And did you see the individuals after they left the grill gate in that dormitory area?

A No.

Q Okay.

A I was still in the wing.

Q Did Mr. Schlegel have a billy club with him when he

went into the dormitory to remove inmates?

A I never seen him with one.

Q Did Mr. Boughton?

A I don't know. I don't think so. I never seen him with one that I can think of.

Q Did Mr. Coljee?

A The only ones I seen were issued with billies was -- I seen three. That was Mr. Peterson had one. He got one when I got it and Mr. Uitbeyerse is the only ones I seen.

Q And the three of you had those billy clubs with you in the dormitory area?

A Umhm.

Q And you saw nobody else with a billy club at that time?

A Not that I could put a finger to.

Q You indicated that you saw two of the guards who were removing individuals from their beds. This was Mr. Boughton and Mr. --

A Schlegel.

Q -- Schlegel. And were they removing all of the four inmates?

A No, there was I would say, there was approximately ten or twelve officers there present.

Q I see. And can you advise us in your own words as to the manner in which they were removing them

from the beds?

A Well, they went over to the bed and said "Okay". They were getting them up out of bed and the individuals in bed, they were telling them to get up out of bed and prodding them along and getting them out of bed there and get them out of there.

Q Were they pulling them out of bed?

A No, I wouldn't say so. They were getting out of bed once they were told to get out of bed.

Q When you say they were prodding them along, does that mean they were just encouraging them with words?

A Well, they might have grabbed them by the arm or something like that or -- or nudged them like this with their hand maybe.

Q Did you see any of the officers acting in that manner towards these four inmates?

A I would say this would be the way you would get somebody up.

Q Well, did you see that, sir?

A Yes, on the way I have just told you.

Q And who did you see doing that sort of thing to these four inmates?

A It would be Mr. Schlegel and Mr. Boughton I would think.

Q And you saw them on that evening?

A Umhm.

Q July 17th, '73. After these individuals were taken out of bed, did they have to force them to move them down the dormitory and out through the grill gate?

A They were -- they went out, we went out of there on the -- on the trot.

Q Inmates and guards?

A Inmates and guards.

Q Did Mr. Schlegel have a billy club with him at that time?

A I was watching the rear at that time.

Q I see. Was there any kicking going on between guards and inmates?

A I never seen no kicking whatsoever.

Q What clothing did these four inmates have on when you saw them in the dormitory?

A About the only thing, if they had anything on would be their shorts. I am not even sure of that.

MR. LANG: I have no further questions. Thank you.

MR. MEURIN: No questions, sir.

EXAMINATION BY THE COMMISSIONER:

Q Were you the one that went to the furthest end of the dormitory, when you and Mr. Coljee and

Mr. Lynch went in?

A I am Mr. Lynch, yes.

Q How far down did you go, right to the end?

A Right to the extreme end.

Q Where was Mr. Lynch?

A I am Mr. Lynch.

Q I'm sorry. Who was the third man that was with you?

A Mr. Peterson.

Q Peterson, I'm sorry. Where was Mr. Peterson?

A Quite honestly, I don't know where he was at that particular time. Whether he was kept at the other end or -- I think he was at this end but I am not certain.

Q Now, you say that the inmates were heaping abuse on Coljee and suggested he lacked intestinal fortitude because he wouldn't come all the way in, is that correct?

A Correct.

Q Did the majority of the abuse seem to be directed towards Mr. Coljee?

A Yes, by all means.

Q Why was that, do you know?

A Uh, the first thing I think when we went in there was because Mr. Coljee hollered out, "Mr. Lynch, take up the position at the far end".

Q Umhm.

A He said this quite loud so it could be heard.

Q Yes.

A And when I proceeded down there, two comments I heard was "--" you want it in plain English?

Q You are not going to shock me or anybody here.

A Yes. "Come on you yellow cock-sucker, get to hell down in here and see how much --" or words to this effect.

Q I see.

A And also "At least Lynch has got more guts than you have you yellow cock-sucker" and so on and so forth.

Q And the situation then was that they were daring Coljee to come in?

A I would say they were trying to entice him to come in there. "We will kick your bloody head in" and all this kind of stuff like this, "you suck cocks" and things like this.

Q We have heard reference to his personal habits?

A Umhm.

Q Now, did you have any fear for your personal safety in there, Mr. Lynch?

A Well, I will put it this way. I didn't think very much of being sent to a position, to take up a position like that especially when I didn't know

what was going on or gettin' in there. I thought here we were about -- the wing holds 96, probably had anywheres from the neighbourhood of 85, 90 inmates in there and here we are only three or four of us. None of us outside of our green shirts to protect us. I didn't think very much of it.

Q Did you feel then that the fact that you were an authority was going to be of little use to you at that time? I am referring to the green shirt as your badge of authority?

A Well, sometimes we might get away and sometimes we might not.

Q I want a frank answer, Mr. Lynch.

A Yes.

Q Was the situation such that you were in fear for your personal safety at that time?

A I will put it this way. I had a lot of respect for it. I was very concerned at that time. I was very concerned because it was a little out of the ordinary as to what they were going at that night.

Q It was?

A Yes.

Q It wasn't just the usual protestations that you would naturally hear when lights are turned out in a group of young men?

A We had this quite a few nights and it usually calms down or once we make an appearance with more than one or two of us.

Q That does it?

A Usually this is enough. This night no matter how much of an appearance we made we weren't making very much of an impression.

Q I see. Now then, were you instructed to look for ringleaders when you went down at any time?

A No. I took it that this is an action that they usually take. I have been -- since I have been employed there, I have done -- been sent down in there about three or four times.

Q Umhm.

A And usually sending us down in there, one officer or two officers down in there and staying in there for half an hour and walking around and moving around usually breaks it and game over and they go to sleep.

Q But this was different?

A This one, no way were they going to shut up.

Q Now then, you were not in on the discussions as to who was to be removed?

A No, no way. It was senior people then.

Q You were just to go in there to render whatever assistance you could if anything happened, is that

correct?

A That's correct.

Q What were your instructions in case the wing did turn on you?

A Get the hell out of there as soon as we can.

Q And the best way you could?

A And the best way we can.

THE COMMISSIONER: All right, thank you. Any questions arising out of that.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, I take it that it was very much a potentially explosive situation that night? In other words, you felt it could explode the way things had been going?

A Yes, it was very -- very bad that night. For an example as I have mentioned earlier, if there's a ruckus in a wing usually if we make one or two patrols and we brought in, informed the guard room and they know there's more officers floating around, usually this calms things down. That night it wasn't being calmed down one bit and there was also rumours that there was weapons in there.

MR. MEURIN: No further questions.

(Recess)

MR. PEACOCK: Call Thomas W. Addinall, please.

THOMAS WILLIAM ADDINALL, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Addinall, you are an employee of the Calgary Correctional Institute?

A Yes, sir.

Q How long have you been there?

A Seven years.

Q And what's your position?

A I am a Correction Officer II.

Q And were you so employed on July 17th, 1973?

A I was.

Q Were you on duty between four o'clock and twelve o'clock midnight that day?

A That was in my tour of duty, yes.

Q I see. Were you at the Institute on the evening of July 17th?

A Yes, sir.

Q How did you come to be there?

A I was -- received a phone call at home from the senior officer requesting I went in early.

Q Who was the senior officer?

A Mr. Cater.

Q What did he say to you on the phone?

A He said "We are having problems at the Institution. Will you come in as soon as possible".

Q So I take it you weren't on duty? You were at home?

A I was at home at that time.

Q Do you recall what time it was you got the call?

A About twenty minutes to eleven.

Q That would be at night?

A At night.

Q Where do you live?

A Southwest Calgary.

Q I see. So you had to trek out there that night, did you?

A Yes.

Q What time did you arrive at the Institute?

A About five minutes to eleven.

Q And could you tell us what happened upon your arrival there, please.

A I went to the guard room to inquire where the problem was and was informed it was the West Wing. I went through the security gates and went towards the West Wing.

Q This would be down the hall on the way to the West Wing?

A Yes, sir.

Q What did you observe?

A I saw four inmates being hustled around the corner of the West Wing and down the hallway.

Q This would be down towards the guard room?

A It would be down towards the guard room.

Q And what did you observe?

A The minute they were being hustled forward, and I saw they were being taken in my view towards the maximum security area.

Q Were there guards with the inmates?

A They were behind them.

Q Do you know which guards were there?

A Well, I saw Mr. Schlegel who was on, appeared I believe on the right side of them and this was the side I viewed and he was to me then the senior officer, appeared to be the senior officer. And I don't recall exactly who was there.

Q Now, could you tell us where in relation to the guard room you were standing when you first observed these people coming towards you?

A I was probably about ten, fifteen feet beyond the guard room towards the next grill.

Q I see. Now, so they would be on the other side of the grill?

A They were way down just coming around the corner from the West Wing, probably sixty feet away from that grill.

Q Now, am I correct in assuming that as you were standing there on that side of the grill gate, that

you wouldn't be able to see the barbershop?

A No, I would not, no.

Q It would be around the corner?

A Around the corner.

Q So that the first time that you saw these inmates being moved along by the guards was after they had turned the corner and come -- turned the corner from the corridor where the barbershop is?

A No, sir. They went immediately out of the West Wing and turned the corner into the hallway leading to the guard room. The barbershop is in the north hallway.

Q I see. So they hadn't yet reached the barbershop?

A No.

Q Now, as these four inmates were coming along, could you see how they were dressed?

A They had underpants on. They had underpants on.

Q Was that all?

A As far as I can recall.

Q I see. Now, what did you observe as they came towards you?

A They were moving, what I would determine in a reluctant manner. They didn't want to hasten on moving and the staff appeared to be behind hustling them forward.

Q Were they hustling them with any type of a weapon?

A I saw no weapons at all at that time.

Q I see. Now, when they got to the grill gate did you meet them at the grill gate?

A I was just at the gate as they started coming through.

Q Did you observe, from the period you first observed them to the grill gate, did you observe any of the guards using force on the inmates at all?

A I use the phrase "hustling" as the only sort of force that I saw used, sir.

Q And what kind of force was that?

A This would be -- they may -- they were behind them but they appeared so close that they could possibly have been moving them forward with their hands.

Q I see. Did you observe any of the guards strike any of the inmates on their way down the hall as they approached you?

A I saw no officers striking an inmate.

Q When they got to the grill gate, what happened?

A They passed through. I asked Mr. Schlegel if he had sufficient men to deal with the situation and he said "Yes.".

Q Did you then follow them as they proceeded on towards the cell block?

A No, sir. I went to the West Wing where the problem

had been to see if my presence was required there.

Q As they came by you at the grill gate, did you strike any of the inmates?

A I did not strike anyone.

Q Did you kick any of the inmates?

A No, sir. I may have made a gesture but I did not strike anyone.

Q I see. When you say "a gesture", what do you mean by that?

A I may have said "Come on, get a move on" or something. As I say, they were pretty reluctant. They were not moving down towards the area. They were, if anything, hanging back.

Q But your evidence is that you didn't use any force on the bodies of any of the inmates?

A I did not strike any inmate.

Q Not with your foot or with your hand?

A No part of my body.

Q Now, after they proceeded to pass you, you went down to the West Wing?

A Yes, sir.

Q Who did you observe there by way of Institute personnel?

A There was a senior officer, Mr. Dewar at the cubicle and through the security gate, and I saw Mr. Cater in there. There was another officer

or two but we were on night lights at the time. It's hard to say who they were.

Q When you got down there, do you recall what time it was?

A Well, it would be about eleven o'clock or thereabouts.

Q And was there any noise coming from the West Wing when you got there?

A No. That's one of the reasons I went down there. I was taking over the night shift and I wanted to insure or find out what the situation was in the wing. At that time all the other inmates were on their beds.

Q Was there any yelling or locker-banging when you got down there?

A Not at that time.

Q You took over the shift and became the officer in charge of the West Wing at midnight, did you?

A No, sir.

Q What happened?

A I was taken over with Mr. Boughton in the guard room.

THE COMMISSIONER: Mr. who?

A Mr. Boughton.

MR. PEACOCK: When you took over the shift and from eleven o'clock until you went off

shift the following morning, were there any further disturbances in the West Wing?

A Not in the West Wing.

MR. PEACOCK: Thank you. Those are all the questions I have. Would you answer other Counsel, please.

THE COMMISSIONER: Mr. Stilwell.

CROSS-EXAMINATION BY MR. STILWELL:

Q There had been a disturbance in the cell block that night?

A I learned -- when I got to the Institution, I learned there had been.

Q Briefly what happened I understand was that some prisoners got drinking some concoction and got sick?

A This is what I understand.

Q They had to be taken to the hospital?

A Yes.

Q They fought with the guards and they fought with the police, and generally made quite a rucus, is that correct? Is that your understanding of the situation?

A That's my understanding of the occurrence in the hospital.

Q There's been evidence here that the inmates in the West Wing didn't know about that occurrence?

A I don't know, sir.

Q But the staff did know about it?

A Yes.

Q I suggest that this had the effect of heightening the tension on the part of the guards that night?

A I would consider that if violence had been used with the staff, the tension would be higher.

Q And of course, so far as the staff were concerned, they didn't know whether it was part of a conspiracy or whether these were in fact separate incidents which it now appears they were?

A One -- one would not know for sure, no.

Q Are you aware that on Sunday night, the night before last, two guards were attacked at the Calgary Correctional Institute?

A I was made aware of that this morning.

Q And were rather seriously injured?

A Yes.

Q And one of the inmates who took part in the attack is a known troublemaker and in fact has previously escaped from the Calgary Correctional Institute?

A That is my understanding.

CROSS-EXAMINATION BY MR. LAING:

Q Mr. Addinall, do you recall who the guards were that were moving the four inmates down past you?

A The only one I recall seeing and taking note of was Mr. Schlegel.

Q And you don't recall who the others were?

A I did not at that time recall who they were.

Q And your evidence is that you saw no weapons on any of the gaol personnel at that time?

A That is correct. I did not see any of the Institution equipment in evidence.

Q Mr. Stilwell has made reference to an incident earlier that evening where inmates had to be taken to the hospital. Was Mr. Schlegel involved in that incident that evening?

A Not to my knowledge.

Q Was Mr. Coljee involved in that incident?

A He was on duty during that period.

Q He was?

A Yes.

Q You say that the guards that were taking these four inmates down the hall were sufficiently close to be able to push them along the hall, is that correct?

A As they turned the corner, they were sufficiently close.

Q Were they in fact pushing them down the hallway?

A This was an impression as I -- that I made that they hustled them around the corner.

Q Was this the case with all four inmates?

A They were all -- it was one composite group.

Q I see. Involving all of the guards and all of the inmates?

A The four inmates and three or four of the staff.

Q I see. And you didn't see these individuals after they passed you on the way to the isolation block?

A Only to see that they were clear of the area I was and moved down the hallway.

MR. LANG: I have no further questions, thank you.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, I take it at the time you were heading towards the grill gate then you would have been facing in a southerly direction? In other words, a direction towards these prisoners and guards?

A Yes.

Q There's been testimony given to the effect that one prisoner was backed in a corner or against a wall or something to that effect and was struck a number of times. Did you see anything of that nature?

A All four came around the corner together with the officers immediately behind them in one composite group.

Q I take it then sir that you did not see --

A No.

Q -- the incident that I have described?

A No.

Q You were in a position to see if that would have

occurred?

A I would say that I was pretty well.

MR. MEURIN: No further questions.

EXAMINATION BY THE COMMISSIONER:

Q Were arrangements made that you would be available even though you were off shift, Mr. Addinall?

A No, sir. It's accepted if you are on call you are required at any time.

Q I see. Well then, once you are off shift, it's the understanding that you will be available?

A If I am at home and required.

Q Suppose you are not at home?

A Then there's no -- there's no requirement to leave my whereabouts.

Q Once you are off shift, that's it?

A Yes.

Q Was it more by luck than good management that the call reached you?

A No, sir. I was preparing to go on shift anyway.

Q You were just called out early, is that correct?

A Yes.

THE COMMISSIONER: Thank you.

MR. PEACOCK: Thank you, Mr. Addinall.

(Witness retires)

MR. PEACOCK: Call Mr. Leonard James McCoy.

LEONARD JAMES McCOY, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. McCoy, you are an employee at the Calgary Correction Institution?

A Yes, sir.

Q And what is your position there?

A C.O.1.

Q And how long have you been employed at that Institution?

A For approximately eight years.

Q I'm sorry?

A Approximately eight years.

Q And you are a C.O.1?

A Right.

Q Now, were you so employed on July 17th, 1973?

A Yes, I was.

Q What shift were you on that day?

A Midnight shift.

Q Had you worked from midnight on the 16th until the morning of the 17th?

A Right.

Q And then you were supposed to come back at midnight on the 17th?

A Right.

Q Is that correct?

A Yes, sir.

Q Were you called back early that night?

A Yes, I was.

Q Who called you?

A Ken from the canteen. I don't know his last name. He works in the canteen out there.

Q And were you at home when you received the call?

A Yes, I was.

Q And what was told you over the phone?

A That they were expecting trouble and they asked me if I would report in for duty.

Q Did they tell you where they were expecting trouble?

A In the West Wing.

Q Do you recall what time you received this call?

A No, I don't know.

Q But you ultimately ended up at the Institute early that night?

A A little early, yes.

Q You don't know what time exactly?

A No, I don't know exactly.

Q Tell us what you did when you got there, please.

A I went to the guard room and was issued a billy. I picked one up. I don't know if I was issued one or I just picked it up and I went to the West Wing.

Q Do you know who was in the guard room when you got there?

A Ken from the canteen was on the buttons and let me through.

Q Was Mr. Cater there at that time?

A No, sir.

Q And you proceeded from there down to the West Wing?

A Yes, sir.

Q Did you get all the way down to the West Wing before you observed anything?

A Yes.

Q What happened? Tell us what happened when you got to the West Wing?

A Well, I went into the West Wing and they were already going, started going down the hall.

Q Who?

A Mr. Schlegel, Cater was there, some other guards. I don't know who.

Q Were they going by themselves?

A No, there was quite a few of them going down.

Q Were there any inmates with them?

A No.

Q All right. Which way were they going, towards the West Wing?

A No, this was already in the West Wing. They were going down into the West Wing from the security gates.

Q I see. So you caught up with them as they were going in?

A Right.

Q What did you do when you got there? Could you tell us what happened.

A I went down to approximately bed #3 or 4 just inside the wing.

Q Would that be on the east side or the west side of the wing?

A That would be on the east side.

Q What did you do there?

A I just watched the guys along the east wall from say 1 down to 20 or 19 or whatever it was just to see they didn't get up because I didn't know what was going on, or how many men were going to be moved out or if any was going to be moved out.

Q You just joined the crowd of guards as they went in there?

A Right.

Q Did anyone tell you to watch these beds in the East Wing or is that just what you undertook to do?

A No, nobody told me anything. I was just kind of in the dark.

Q Now, you stood and watched the east bank of beds, did you?

A Right.

Q Did you observe any of the guards getting any of the inmates out of their beds?

A Well, I knew they were getting them out on the other side. I glanced out of the corner of my eye, but I was more or less concerned with protecting them from behind from the other side.

Q Do you specifically recall any of the inmates being taken out of bed by any of the guards?

A No, not directly, no.

Q Did you see any out of the corner of your eye, did you see any of the inmates being struck by any of the personnel of the Institute?

A I seen a scuffle going on between Mr. Schlegel and one of the inmates on the one side.

Q Do you know what inmate that was?

A No, I don't.

Q Did you see Mr. Schlegel strike the inmate at any time?

A No, I didn't.

Q There was a scuffle going on?

A Yes.

Q Did you hear any sounds that sounded like someone was being struck during this scuffle?

A No.

Q What did you observe then?

A Well, they were taken out through the wing, out

through the front door and I more or less hung along not knowing what to do. Then when I went out of the wing, I didn't really know what was going on.

Q As you stood there watching the east bank, did they hustle these four inmates past you?

A Yes.

Q Did you see them being led up or pushed up or did you see any of them being struck on the way by you towards the front of the West Wing?

A I didn't see any scuffling. They seemed to be going out quite normal.

Q How were they dressed?

A They were just dressed in shorts if I can remember right.

Q Now, when they got past you, did you wait in the wing until these four inmates were led out?

A Well, I was still in the wing. When I got back up to where the guard's cubicle were, they were already outside the wing.

Q Were you one of the last out of the wing?

A One of the last, yes. I don't know if I was the last or not.

Q So you were still watching down the wing?

A Yes, to see if there was any other trouble there.

Q Was there any other trouble after these four were

removed?

A Not when I was in there, no.

Q When you got out of the wing, did you remain there for awhile?

A Well, yeah. Like I say, I wasn't certain what to do. Then I went out of the wing and I seen Mr. Schlegel and Mr. Uitbeyerse and some inmates going up the hall so I figured I would join in with them. So I even got late on that deal.

Q So you ended up escorting the prisoners down the hall or the inmates down the hall?

A Well, I wouldn't say escorting. I was following them.

Q Were you behind the whole bunch of them?

A Yes.

Q Do you know how many guards were taking the inmates down the hall?

A It looked like just two.

Q Who would that be?

A Mr. Uitbeyerse and Mr. Schlegel.

Q And you were following along behind?

A Right.

Q When they got out in the hall, did you observe Mr. Schlegel strike any of the inmates?

A No, I didn't.

Q With billy clubs?

A No, I didn't, sir.

Q Did you observe Mr. Schlegel involved in a scuffle in the hall with any of the inmates?

A Not in the hall, no, sir.

Q Were they ahead of you and around the corner so you wouldn't be able to see them when they came up?

A They were quite a ways in front of me, yes.

Q So I gather from the time they came out of the West Wing through the grill gate out into the hall and down around the corner, during that period you didn't observe what went on?

A No.

Q I gather you caught up with them as they were heading down the hall?

A I caught up to them by the time they were at the North Wing, at the gymnasium. Sometime in there.

Q Had they passed the guard room by the time you caught up to them?

A Yes.

Q So you didn't see anything with respect to these prisoners being led from the West Wing down the hall until they were past the guard's cubicle and somewhere around the North Wing?

A Yes, right.

Q And that's when you caught up?

A Right.

Q What happened when you got there?

A Well, I walked with Mr. Schlegel and Mr. Uitbeyerse up. The inmates were quite a ways ahead of us yet and I went up to the cell door and the cell door was open, and they went downstairs. And I went down behind them. And some place standing at approximately the bottom of the steps or two or three steps up or something because the whole cell block crew or say some men from the cell block crew were there to assist Mr. Uitbeyerse and Mr. Schlegel.

Q When you got down to the cell block, was Mr. Uitbeyerse and Mr. Schlegel there, is that correct?

A And some guards from the -- at the cell block door, at the entrance, yes.

Q Do you know who else from the cell block joined the group down there?

A Mr. Baron was down there and I believe he was in charge of the cell block.

Q And did you observe these inmates being placed in the isolation cell?

A Not directly because I was at the bottom of the stairs where they were stripping them off and searching them and that.

Q Did you see them being stripped?

A Yes.

Q And did you observe any scuffling or force being used at that time?

A Not at the -- not at the bottom of the stairs there, no.

Q Did you observe any force being used by inmates or guards at any time as they were getting ready to go into the cell block or going into the cell?

A No, I didn't.

Q Did you at any time that evening observe a guard striking an inmate with a billy club?

A No, sir.

MR. PEACOCK: Those are all the questions I have. Would you answer any questions of other Counsel, please.

MR. STILWELL: No questions.

CROSS-EXAMINATION BY MR. LAING:

Q Mr. McCoy, when you arrived at the West Wing the initial time, was it quite noisy in that area?

A Well, not when I was there, no, not that I noticed.

Q As you arrived, there were guards going down into the area and you ultimately saw they were bringing inmates out, is that correct?

A Yes.

Q Did you see which inmate Mr. Schlegel came out with?

A No, I didn't, sir.

Q I see. Was there one guard for each inmate as they came out of the West Wing towards the grill gate and

the guard room there?

A Gee, I don't know, sir.

Q I see. Did you have your billy club with you when you went into that dormitory area?

A Yes, I did.

Q Did the other guards have billy clubs with them as well?

A I believe some of them did, yes. I am not sure.

Q Not all of them?

A I am not sure, no. I come in a little bit too late for any of the planning or anything.

Q Did Mr. Schlegel have a billy club with him?

A This I don't know either.

Q Did he walk by you when he brought a prisoner, an inmate out of that dormitory?

A I believe he walked behind me, yes.

Q So you followed the guards and the inmates down the hallway?

A Right.

Q Was there a portion of time as you moved down that hallway where these individuals were not in your view?

A Yes, there would be, yes.

Q A considerable period?

A Yes, two, three minutes, maybe five minutes.

Q Did Mr. Schlegel and Mr. Uitbeyerse have billy

clubs with them as they moved the prisoners down the hallway?

A This I don't know, sir.

Q You didn't notice anything in their pockets or in their hands at all?

A Not that I can recall.

Q Were they pushing the prisoners along?

A No, the prisoners were quite a ways in front of them.

Q Were they running?

A I can't recall if they were or not.

Q As you stood at the bottom of the stairs and the prisoners were stripped, you say that you saw no scuffle or commotion at that time?

A No, sir.

Q As you stood on that location, would you have been able to hear any noise of scuffle that may have gone on at the isolation cells?

A I would probably be able to hear, yes.

Q Is it in quite close proximity to that place where you were standing?

A Twenty, 30 feet.

Q So any noise there you would have been able to hear?

A Maybe, maybe not.

Q Did you hear anything?

A No, I didn't.

Q Did you hear a conversation going on?

A Oh, yes, there was conversations.

Q Were the inmates yelling and abusing the guards at that point?

A Not at that point.

Q I see.

A Not that I could hear anyway.

Q At any time as the inmates moved down the hallway, did you see them being prodded along by the guards?

A No, sir.

Q Was the only scuffle that you saw in the West Wing this scuffle with Mr. Schlegel and an inmate?

A Right when they were getting them out, yes.

Q You don't know who that inmate was?

A No, I don't.

Q Were the prisoners yelling anything at that time?

A No, it was fairly quiet in there at that time.

MR. LANG: I have no further questions, thank you.

MR. MEURIN: No questions, sir.

EXAMINATION BY THE COMMISSIONER:

Q Mr. McCoy, can you describe the scuffle between Mr. Schlegel and the inmate any more than you have?

A No, I don't think so, sir. It was kind of out of my eye. I was more concerned with what was going

on, that these guys weren't going to get out of their beds.

Q Why did you go into the West Wing at all?

A Because I was called in for extra duty and I was told in the guard room they were expecting trouble in the West Wing.

Q So you just walked into the West Wing yourself, on your own?

A Not knowing what was going to take place or what had taken place.

Q Were there any custodial officers outside of the West Wing when you went in?

A They were standing around the West Wing door, either just inside or about there.

Q In that case, why did you go into the wing when other guards had not gone in?

A I didn't until the rest of the guards had gone in. I followed them in through the last door.

Q They hadn't moved in by the time you got there, but about the time you got there they did move in?

A Right.

Q So you went along with them?

A Right.

THE COMMISSIONER: That's all. Thank you very much. Anything arising out of that, gentlemen?

MR. PEACOCK: Thank you Mr. McCoy.

(Witness retires)

MR. PEACOCK: I think perhaps I will ask that we adjourn and at two o'clock we will call Mr. Schlegel.

(Hearing adjourned)

(Please go to page 627)

OCTOBER 9th, 1973

DEPOSITIONS TAKEN AT 2:00 P.M.

MR. PEACOCK: Will you call John Schlegel.

THE CLERK: Your full name, sir?

THE WITNESS: John Schlegel.

THE CLERK: How do you spell your last name?

THE WITNESS: S-C-H-L-E-G-E-L.

JOHN SCHLEGEL, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Schlegel, you are employed at the Calgary Correctional Institute?

A Yes sir.

Q How long have you been employed there?

A 14 years at Calgary, sir.

Q Have you been involved in Correctional Institutes prior to coming to Calgary?

A Yes sir.

Q Where were you before that?

A Lethbridge.

Q How long were you in Lethbridge?

A 13 years.

Q And I take it you started in Lethbridge?

A Yes.

Q What is your present position?

A Assistant Deputy Warden.

Q And I understand that there are four of you, is that correct?

A Yes.

Q There is yourself and Mr. Merriam?

A Mr. Merriam, Mr. Elliot and Mr. McMeekin.

Q Now, were you an Assistant Deputy Warden on July 17th, 1973?

A Yes sir.

Q I take it you were on duty that day, is that correct?

A During the day, I was, yes.

Q What shift were you on?

A 8 till 4:30.

Q That would be 8 in the morning until 4:30 in the afternoon?

A Yes.

Q Who took over your position when you went off shift at 4:30?

A Mr. Merriam, sir.

Q Now, did you subsequently go home after your shift at 4:30 on the 17th?

A Yes.

Q And did you subsequently come back to the Institute?

A Yes, I did.

Q Why did you come back?

A Well, I received a telephone call to come back because there was some trouble in the West Wing.

Q Did you know who called you?

A Yes, Mr. Cater.

Q And Mr. Cater, was he on duty in the guard room at that time?

A Yes, he was.

Q Did he give you any reason why he wanted you back specifically?

A Yes, he said there was trouble in the West Wing.

Q Was Mr. Merriam not there to look after this trouble or do you know?

A I didn't know where Mr. Merriam was at that time.

Q Did you respond to this call and come back to the Institute?

A Yes, I did.

THE COMMISSIONER: What time was the call?

A Approximately, about 10:30, sir.

Q MR. PEACOCK: And what time did you get back to the Institute?

A Very shortly after that. I only live across the road, within five or ten minutes. I got dressed because I was in bed, ten minutes.

Q So you got within this ten minutes or so you got to the Institute?

A Yes.

Q Can you tell us what you did and what happened?

A Well, I immediately went to the guard room where

Mr. Cater was and Mr. Cater and one other officer were the only two people in the guard room.

Q Do you know who the other officer was?

A No, I don't, not at this time, sir. All I recall is two people.

I said to Mr. Cater, "What's the matter?", and he said: "We have trouble down in the West Wing", so I said: "Well, let's go and see what it's about", do you want me to continue?

Q Sure, go ahead.

A Mr. Cater and myself went down into the West Wing and went into the area and I noticed two or three officers stationed in different areas apparently they had been trying to stop this disturbance that had been going on and apparently they had no effect because when I got there there was quite a bit of yelling and violent threats and this sort of stuff.

Q This was coming from the West Wing?

A Yes, from the Wing.

Q When you got there were there any staff of the Institute within the dormitory itself?

A Yes, there was.

Q Who was there?

A I noticed three people, three officers.

Q Do you recall who they were?

A Mr. Lynch, Mr. Coljee and I believe Mr. Peterson.

Q And they were within the dormitory when you arrived at the

guards cubicle?

A Yes.

Q Do you recall who was at the guards cubicle when you got there?

A Mr. Dewar.

Q And did you have a conversation with Mr. Dewar?

A Yes, I did.

Q What happened when you got there?

A Well, when I went in there and there was both officers there and the shouting going on I went into the cubicle where Mr. Dewar was and I said to Mr. Dewar, I says: "What's the problem?", and he says: "They want the radio on all night".

I says: "Well, they know what time the radio should be off", or something to that effect.

Then I thought things were not quieting down and with three officers in the Wing with 85 inmates I thought it could get out of hand and I decided I better remove those officers from inside the dormitory and that is the first thing that I did.

Q How did you get them out?

A I told them, I says: "You fellas come on out".

Q You signalled to them?

A Yes.

Q Did they immediately come out?

A They came out and we locked the gate, the security gate and from there on Mr. Cater and myself walked back to the main guard room and talked it over with Mr. Cater, I says: "Well, Wally, we have to do something, if that thing gets out of hand we've had it".

THE COMMISSIONER: Pardon?

A I says: "We've had it".

THE COMMISSIONER: What do you mean by that?

A Well, if the racket got out of control in that area to another area to another area it would go around the whole gaol and this is what I wanted to avoid to have it contained in this area, I didn't want it to go into another area.

MR. PEACOCK: Yes?

A And as I say we went back to the guard room and I talked it over with Mr. Cater, I says: "Well, Wally, we have to do something", so I says: "You take the gas thrower and I will take a billy with me and we will go back down there".

I picked a billy for my own protection and we went back to the West Wing. Some of the other officers, I don't know how many that were in there that came to the guard room and followed us back, I don't know who they were but, however, when we got back to the West Wing I went into Mr. Dewar's cubicle again and I said: "Mr. Dewar, are you sure you

know the people that are supposed to be the ring leaders, the supposed ring leaders?", and he said "Yes" and he gave me four names specifically, Sims, Spooner, Watson and Winters and I asked him previously and he gave me those four names again.

Also Mr. Coljee and Mr. Boughton were near the cubicle and they said those four people were the main ring leaders.

Q At the time that you were talking in the cubicle when you got back from the guard room was there any noise coming from the dormitory?

A Yes, there was threats in that sort of manner and abusive calls, calling the officers abusive names and threats, something like "You come in here and you're dead", things of that nature.

Q At this time was this out of the ordinary from any other night when they complained about the radio being off?

A Definitely it was out of the ordinary because they were actually threats were being tossed about in this sort of manner and other nights they have gone back to sleep, lights out at ten o'clock and this was getting on now to approximately quarter to eleven at this time.

Q So what happened then?

A Well, I remarked to the fellows again, I says: "Lookit, we have to get the ring leaders out", I says: "If this thing gets out of hand again", I says: "The usual thing,

we will have real problems if it gets to the other Wings and the cell block and I don't know how we will stop it then".

I have been in these situations before and we have to get the ring leaders out and I am sure we can stop the racket.

Q Did you proceed to do that?

A Yes, I said, you fellows come with me, some of them had billy's and I said to put those things away and only use them if you absolutely have to, I had a billy in my pocket.

Q Which pocket?

A In the right pocket.

Q In the front?

A Yes.

Q Yes?

A I says: "I will go down to the furthest person in there", which was Sims because we had also been told that some of the inmates had weapons. Some of the inmates had told an officer there to be careful that some of these fellows have weapons.

Q Do you know which officer it was?

A Yes, spoke to Mr. Coljee and Mr. Dewar, I believe, they had told Mr. Coljee about weapons being in the Wing.

Q Yes?

A When I went down into the Wing, this was in the dark, and there were a few inmates in there that I was a little

bit afraid of and I thought they might jump me.

THE COMMISSIONER: Who are they?

A They are still up there, sir.

THE COMMISSIONER: You would rather not name them?

A Kennedy C. And another inmate by the name of Nurse.

THE COMMISSIONER: Nurse?

A Yes.

THE COMMISSIONER: Thank you Mr. Schlegel.

MR. PEACOCK: Continue, please?

A The first thing I did I went over to Nurse's bed and I says: "Nurse", I says: "I understand you have something in this bed", and I says: "Don't you make a move from this bed", because I had to walk by him to get to these other inmates.

However, Nurse didn't make his move and I walked down to the farthest bed which was inmate Sims.

I said to Sims, I says: "Sims, get out of this bed, you are going to the box", he started to give me some sort of static "what for" or something like this and I had the billy in my pocket and I reached in and pulled it out and says: "Sims, I told you to get out of this bed, get moving", he said something anyway his hand come through the blanket like that, flying this way and I figured I was going to get it in the

face so I struck Sims across here.

Q On the arm?

A On the arm.

Q Which arm?

A It would be his right arm, it was his right arm.

Q What hand did you have the billy in?

A In my right.

Q I will ask the clerk to show you a box of exhibits, can you identify the billy --

A I can identify the similar type that I had.

Q Yes. Show the exhibits --

A I had a short one, this type right here, sir.

Q Is that exhibit number 36?

THE CLERK: 36 is correct.

THE COMMISSIONER: That is known as the gas billy?

A Yes, it is. It shoots a gas pellet but as I say when we went into this Wing I didn't want anybody hurt and I didn't take a gas pellet with me because it could be dangerous and I told Mr. Cater that when he had this large weapon to use it as the last resort, if things get out of hand then use it but don't use it unless you have to.

Actually what we were using it for more was it's a terrible thing to look at and I thought it would scare the fellows that seen it and --

MR. PEACOCK: Where was Cater at that time?

A He came in with me. I was going down on this side here and he went over to this side.

Q That would be the West side?

A West side, yes.

Q Alright. When you got down you struck Sims, you say, with the billy on the arm?

A Yes.

Q What did he do when you struck him?

A Well, he was coming out of bed this way and when he got struck I probably hit him a couple of times after that, once or twice, whatever it was, however he jumped out of bed and out of the dormitory he went into the hallway.

Q I see. How many times did you strike him with the billy?

A Approximately three times.

Q Where did you hit him?

A Always, as carefully as I could I hit him up here.

Q On the arm?

A Up here on the soft spot.

Q And when he got out of bed after you struck him you say he headed right out of the dormitory?

A Yes.

Q Was he running when he started out of the dormitory?

A Yes, moving quite fast.

Q Did you observe the other officers getting the other three inmates out of bed?

A No.

Q Now, did you follows Sims up to the front?

A Out of the Wing?

Q Yes, out of the Wing?

A Yes.

Q Were you right with him?

A Fairly close to him, he would be five, six feet away, probably.

Q And where were the other three inmates and the guards that were escorting them, were they ahead or behind you?

A No, they had already gone out, I did not see them coming out of the Wing.

Q Now, I take it -- did you on the way out of the Wing did you strike Sims at all with the billy?

A No, never.

Q Did you contact him at all by using force?

A Not inside the Wing.

Q Alright, you got out past the guards cubicle?

A Yes.

Q Were these other three inmates and guards waiting for you in the hallway you come out with Sims?

A Yes, three inmates were there together and Sims run over to them and the officers were more or less to the one side.

Q What happened when you got out there?

A Well, when Sims run over to the other inmates I said to Sims "I told you to get to the cell block", I gave Sims -- his back was towards me and I hit him across here.

Q And did you hit him with the billy?

A Yes.

Q And what was the purpose of hitting him at this time?

A Well, the four of them were together and I didn't know if they were going to jump me there, it seemed like nobody was doing anything, the officers were just standing to one side and it seemed like it was left to me again.

Q Now, was Sims facing you when you hit him or did he have his back to you?

A When he ran, he was in this manner, he could see me, he didn't have his back completely to me but sort of sideways.

Q And you say you struck him on the arm with the billy?

A Yes.

Q Did you hit him again in the hall?

A No, not from then.

Q What did he do when you hit him this time?

A They all ran to the cell block.

Q Did you hit any of the other inmates in the hall?

A No.

Q Can you tell me exactly where in the hall this occurred?

A This is very -- it's -- as soon as they come out of the Wing it would be outside the door.

Q Well, Mr. Clerk, would you show Mr. Schleger exhibit 15, please.

I take it that is the view of the cubicle as you come out into the hall?

A Yes.

Q Would you have been passed that point?

A Yes.

Q Alright, would you show the witness exhibit number 16, I'm sorry, exhibit 14, I take it that is a picture of the corner where you come out of the West Wing and turn into the hall, is that correct?

A Yes.

Q And can you see the area that you were in when you struck Sims?

A Yes, right there. Right between those two windows.

THE COMMISSIONER: There is the entrance to the West Wing shown there?

A No sir, it's around the corner, around here.

Q MR. PEACOCK: I don't know if I asked you this question but did you strike any of the other inmates at that time?

A No.

Q Now, when you struck Sims on the arm with your billy what did he do?

A They all broke and ran to the cell block.

Q Did the guards and yourself follow?

A I followed and I believe the guards were following behind me.

Q What was the next thing that happened as you started towards the cell block?

A They were quite a ways ahead of me and when we got to the cell block, down into the cell block and from there we stripped them any articles, counterban and from there I put them into the cell.

Q Now, let's get to the stage where you arrive at the cell block, I take it that the inmates were ahead of you?

A Yes.

Q When they were ahead of you did they go down the stairs first or did they have to wait for the door to be opened?

A They had to wait for the door to be opened.

Q Who opened the door?

A It's opened from the upstairs in the cell block itself, there are T.V. cameras and what they do is press a button and one of us officers opens the door and then the inmates go in.

Q Did you open the door --

A Yes --

Q When the button was pressed?

A Yes.

Q Do you know who was pressing the button that night?

A At that time I don't know.

Q But you are the one that pulled the door open?

A Yes.

Q What happened then?

A They went downstairs and that is where we stripped them.

Q Was anybody struck or kicked on the way downstairs?

A No.

Q I take it that they got downstairs into this isolation area?

A There is another door before they get in there.

Q Was that opened by a button also?

A No, that is opened by a key, one of the officers came from upstairs and opened that door.

Q Do you know who that officer was?

A No, I don't.

Q Alright, now, the gates were opened and the inmates went into the hallway, the isolation area hallway?

A After we had removed their glasses and false teeth, yes.

Q Did you do that before the last gate was opened?

A Yes.

Q So that would be in the hallway below the stairs?

A Right.

Q And did they remove their own clothing or did you --

A They removed their clothing.

Q I see. Was their clothing kept or was it given back?

A The clothing was left there.

Q What about the glasses and false teeth?

A I had Spooners glasses in my hand. I didn't want them broken.

Q Whose false teeth did you have?

A One of the officers had false teeth of one of the other inmates.

Q You don't know which officer that was?

A Not specifically.

Q Did you know which inmate that was?

A I believe it was Winters.

Q After they were stripped the gate was opened by a key?

A Yes.

Q During the time that they were stripping and you were getting the glasses and teeth from were any of the inmates struck?

A No.

Q Did you strike anybody?

A Not then, no.

Q Alright. Now, you them through the gate and down into the cells, is that correct?

A Yes.

Q Was it you that decided to put them all in the one cell?

A Yes.

Q What was the reason for that?

A The reason was we had problems earlier on in the evening and there were some of the cells in use and we wouldn't have had enough and we wanted cells for these people, for these other people.

Q So I gather the reason you put them all in the one cell is that you didn't have room for them to each have a cell?

A That's correct.

Q Were the mattresses taken out of the cells?

A I didn't know that they had been taken out but I had been told that there was a mattress taken out, I did not order that.

Q You were not aware of that?

A No, I wasn't.

Q Now, when you got to the door of the cell, to go into the cell, what happened then?

A They all went in, there was one of them reluctant to go in and I cannot tell you which one but I jabbed him.

Q With what?

A Gave him push with my hand.

Q You don't know which one it was?

A No.

Q Did you hit him with a billy?

A No, I didn't hit him, I gave him a push or a jab. I had the billy in my hand and I says: "Get in you".

Q What part of his body did you jab?

A Probably towards the back.

Q You don't recall which inmate that was?

A No.

Q And you locked the gate or the door?

A They were locked by one of the other officers.

Q What did you do after that?

A I went back up to the guard room and went down to the West Wing and spoke to Mr. Dewar again and I says: "How is everything?", and he said: "Quiet". Alright, I says, we want no more officers around here, leave it the way it is, let them go back to sleep. The trouble makers have been removed. I am sure the other fellows will go back to sleep and apparently they were because they were very quiet for the rest of the evening.

Q Did you go home at that time?

A No.

Q What was your reason for staying?

A Well, we still had these other fellows down at the hospital that were coming back.

MR. PEACOCK: Those are all the questions that I have, answer other counsel, please.

CROSS-EXAMINATION BY MR. STILWELL:

Q When you first came to Sims bed, did he have his hands under the bed clothes?

A Yes, he did.

Q When he threw the bed clothes off you didn't know what he had, he might of had a knife in his hand?

A I thought at that time he possibly did.

Q And that is what you reacted to?

A Right.

Q Did Mr. Jackson conduct an internal inquiry into this affair?

A Yes.

Q Now, I believe it was subsequent to that that there was another inquiry appointed, including people from outside of the Institution?

A Apparently there was.

Q That never came to past?

A I don't know about that, sir.

Q Atleast you didn't appear before any other inquiry?

A No.

Q But you are aware that there was one all set up?

A I heard that there was another inquiry.

CROSS-EXAMINATION BY MR. LAING:

Q Mr. Schlegel, had you had much to do with Sims prior to the evening of July 17th, 1973?

A Quite a little bit.

Q And as a result of your dealings with him previously did you have reason to believe that he was going to be a trouble maker?

A Yes, I did.

Q But he wasn't one of the two that you expected specific physical trouble when you went into the dormitory, is that correct?

A I expected that he could have had something in his hand, yes.

Q But there was these other two individuals, Nurse and I don't remember the second name that you specifically thought that you might have a problem with?

A No, I did not, as I say, I was told one of the inmates told one of the officers that Nurse in particular had a knife in his bed and this is the reason I went over to Nurse. I had to walk by the other inmates, he has had a record of violence in starting riots in other Institutions.

THE COMMISSIONER: Who is this?

A Kennedy, sir.

THE COMMISSIONER: I see. This is the person you had to walk by?

A Yes. And that is why I was concerned in going by them to, I had to go by them too to get to where Sims was.

Q MR. LAING: Did Sims have this type of reputation as Kennedy?

A Sims has a reputation, if you want to know about it, violence, yes.

Q Does he have a reputation with you?

A Not with me.

Q Has he given you specifically any problems?

A No, he had not.

Q How long had he been there as an inmate?

A How long has Sims been there?

Q Yes.

A About four months.

Q Did you request officer Coljee to get weapons from the guard house?

A No, I did not.

Q You did not?

A No.

Q Did officer Coljee get weapons from the guard house?

A I don't know.

Q You don't know?

A I don't know.

Q You had a billy with you?

A Right.

Q Where did you get it from?

A From the guard room.

Q So you picked it up from the guard room when you first came down into the West Wing?

A Not when I first came down but after I had come down the West Wing and saw the situation I came back to the guard room and got a billy for my own protection.

Q Did you get any additional weapons for anybody else?

A No, I did not.

Q Was it at that time that officer Cater got the gas gun?

A Right.

Q Were you aware that other officers had billy clubs?

A Not at that time.

Q Did they in fact have them when you initially went down?

A I saw one officer.

Q Did others go down to the guard room to get them later on?

A I don't know.

Q When you and the other officers ultimately went into bring out the four inmates did a number of the officers have billy clubs with them?

A I don't know.

Q You had one?

A Yes.

Q And officer Cater had one?

A He had a gas thrower, I don't consider it a weapon, it was for protection.

Q Other than yourself and officer Cater --

A Right.--

Q Did anybody have a weapon?

A Like I said I saw one other officer --

Q Who was that?

A A fellow by the name of Uitbeyerse.

Q Was he down in the dormitory?

A He came along later on, yes.

Q Was he responsible for taking one of the inmates out of

the dormitory?

A At that time I do not know.

Q Now, when you went down to the West Wing and went back and got a weapon and came back was it on that occasion that it was determined which inmates would be taken out?

A Yes.

Q And you say that your decision was made on the basis of information supplied by Dewar?

A Yes, and Mr. Coljee.

Q Did they give you any basis upon which they based their determination?

A Yes.

Q Could you please advise us of that?

A Well, one of the inmates in particular apparently, Winters, had gotten up and went to one of the tables by the beds, to one of the tables and said "We are going to get that radio one way or the other", that is one instance that Dewar told me.

Q That was during the specific time that the disturbance was taking place?

A This was before I had came there.

Q Okay. Was there any other information that you were made aware of which was the basis of Coljee's or Dewar's decision?

A I could see the situation myself, they were still hollering and what not when I got there.

Q Did they tell you that they had seen Watson, Spooner or Sims participating in any of the activities?

A No.

Q Now, you went down, as I understand it, towards the end of the West Wing specifically to get Sims, is that correct?

A I went down to the farthest of any officers because I thought if anybody is going to get hurt it will be me, I will not ask any other officer to go where I am afraid to go and that is why I went there.

Q And Sims was the furthest one in?

A Yes.

Q I see. Now, was Sims bed on your right or on your left as you came down?

A On my right.

Q And how much space is there between the beds?

A Very close.

Q Were you walking in between Sims bed and the bed next to him?

A Yes.

Q And how close were you to Sims when you first ordered him to get out of bed?

A As close as I am from here to here.

Q I see. And your evidence is that on that occasion that is when you struck his arm --

A I asked him twice to get out.

Q I see. What spacing of time was there between each of

your requests?

A Well, there wouldn't be too much space of time.

Q Well, like how?

A Time enough for him to get if he wished to.

Q Did he react by saying anything?

A Did who react?

Q Sims.

A I said he gave me an argument, he said "What for?", or something to that effect, "What did I do?".

Q And you just said "Get out of there"?

A Yes, I just said to get out.

Q And it was on that occasion when his arm came up from under the covers?

A Right.

Q And your evidence is that you thought he was going to strike you in the face?

A Right.

Q Was he close enough to you to do that?

A Yes, he was.

Q And you struck him on the upper arm at that time?

A Yes.

Q Now, the billy club that you had in your hand, does it have a smooth end or does it have a cap, where the capsule --

A It's got a little bit of a thing that shoots a pellet.

Q Might I see exhibit 36. You just hit him with the flat side of this?

A Yes.

Q Across your body towards the left?

A This way.

Q He had his shoulders turned to you, did he?

A Yes.

Q Was he trying to get out of bed?

A Yes, he was.

Q And you hit him while he was trying to get out of bed?

A Yes.

Q And then as he continued to get out of bed you hit him several more times?

A I hit him twice after that.

Q What was that caused you to have to hit him again?

A Because of him not moving when he was told to move in the first place and because I thought that he might have a weapon.

Q But his hands was already disclosed from underneath the covers, isn't that correct?

A Yes.

Q So you could see that he had nothing in his hands?

A At that time that he could still hit me after that.

Q But you knew he had nothing in his hand?

A Nothing in his hand but his fist.

Q Okay. His hand come up from under the covers at that point you hit him?

A Yes.

Q As he was getting out of bed?

A Yes.

Q And you hit him several more times because he wasn't moving quickly enough for you?

A I hit him twice after that because he could still come after me if he so wished.

Q Did he give you a gesture that he was implying to do that?

A I don't see why not.

Q Well, did he?

A Well, his actions are that he could have.

Q But he didn't?

A He didn't.

Q On the last occasion that you hit him as he was getting out of bed were his feet already on the floor at that time?

A No.

Q He was in the process of getting up?

A Yes.

Q Did you touch him with your other hand?

A No.

Q And after he got out of bed and started moving down towards the grill gates down at the other end did you touch him either with your hand or with the billy club during that period?

A Never touched him, no.

Q Now, I believe your evidence was that once he left the

west dormitory he went and stood with the other three inmates that were standing by the guards, is that correct?

A Yes.

Q At that point did officer Coljee have Winters and Watson up against the wall?

A There wasn't any officer there with them.

Q I believe you said the officer was standing off to the side?

A That is what I said, standing to one side.

Q Were they in view of the inmates?

A I would say so.

Q Were Watson and Winters up agains the wall?

A The three inmates were there before Sims got to them.

Q I am not trying to trick you into a corner --

A I understand.

Q I am interested to know whether Watson and Winters were up against the wall, what I understand by that is were they spread out like this?

A No, just standing.

Q Not at any time that you are aware did you see them up against the wall this way?

A No.

Q Was officer Coljee there?

A I do not know.

Q There were several officers there?

A Apparently yes, there were.

Q Well, you saw several officers standing to the side, did you?

A I didn't observe the officers I was watching the three or the four inmates.

Q So Sims went over and stood with the other three?

A Yes.

Q And then you went up to Sims and hit him again and told him to get down to the cell block?

A Right.

Q Was he just standing there at that time with the other three inmates?

A Yes.

Q Had he been giving you any trouble at that particular point, resisting your efforts to move him along?

A No.

Q When you say the four of them then went running down the hallway --

A Yes --

Q Were you ever within several feet of them, between the place where the four of them were standing at the wall and the first gate before you went down the gate?

A I was quite some distance behind them.

Q At all times?

A Yes.

Q As you passed by the guard room were you and the other officers behind the inmates pushing them along the hallway?

A There wasn't anybody pushing them, they were quite a ways ahead of me.

Q And that was at all times?

A Yes.

Q You were never close up behind them --

A No --

Q Where it would appear to a person standing that you were pushing them along?

A No.

Q Did you use the billy club on anyone of them at any time after they started to run down the hall --

A No --

Q Until they came to the gate of isolation?

A No.

Q And then we get down to the first gate, down the stairs to the isolation cells where the fellows were stripped, is that correct?

A Yes.

Q And then you are at what point in charge of putting them in the cells?

A One of the officers in charge, yes.

Q I see. And did you use the billy club on anybody other than Sims at that point?

A No, I don't even know if it was Sims.

Q But you did use the billy club on one person?

A I pushed one inmate or jabbed whatever you wish, one inmate.

Q And this would be in the back area of the rib cage?

A Yes.

Q And these gentlemen had no clothes on at that particular time?

A That's right.

Q That billy club that has been marked as exhibit number 36, does that have an open end at all times or do you put a cap on it?

A That's an open end.

Q Were you at any time alone with Sims or any of the other inmates where you were completely out of sight of the other guards?

A No.

Q So then your evidence is that you struck Sims four times and nugged him once?

A Yes, approximately four times, I think about three times in that West Wing.

Q Three times in the dormitory and once while standing with the other three prisoners?

A Yes.

Q Did you see Mr. Boughton kick at any of these inmates?

A Who?

Q Boughton?

A Boughton, no.

Q Did you see any of the other officers either strike, kick or do anything to these inmates?

A No.

Q Were they using any force whatsoever to move the inmates out of the dormitory towards the place where they were standing outside?

A Not that I could see.

Q Were you the senior officer in charge at the time that you arrived until --

A There wasn't no other senior officer there so I would be the senior officer there.

Q The most senior officer?

A Yes.

Q At any time prior to taking Sims out of bed did you see him engaged in any activity whatsoever?

A No.

MR. LANG: I have no further questions.

THE COMMISSIONER: Mr. Meurin?

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, would it be fair to say that the attitude of Sims throughout this thing was a defiant one?

A Absolutely.

Q Now, when you went into the dormitory in the West Wing with the other officers was your intention to get in and remove the four inmates and get out as quickly as possible?

A That was the prime reason, yes.

Q Now, what would be the reason for haste or speed or whatever you want to call it?

A Well, the reason for speed is you have 85 inmates in a institution and if you can get the ring leaders out and the rest of the inmates that are in there that don't want anything to do with it will sort of quieten down and this was the main purpose, if it got out of hand someone could get hurt in there and there are many inmates that wouldn't want anything to do with it but are just compelled to go along because the ring leader is there and they are afraid of him but once they are removed and then you can control the rest of the people that you have there.

Q Would it be fair to say then that you would want to get the ring leaders out as quickly as possible before they could insight anyone else to say, attack you or any other officer or perhaps before someone else would get brave enough to insight them?

A That is the prime reason for getting them out in a hurry.

Q And that is why you wanted to hussle them out as quickly as possible?

A Right.

Q Sir, did you take part in any searchers of the West Wing the next day?

A Yes, I did.

Q What was found?

A I picked up a knife and a file the next day.

Q What was the condition of the knife?

A Well, one of them had a bit of an edge on it.

Q What about the file?

A Well, the file is there, they could use the file for anything that they so wished.

Q Were there any other weapons found?

A One of the other officers that came in with me picked up two more knives.

Q Were they sharpened?

A A little bit.

MR. MEURIN: No further questions.

MR. PEACOCK: I wonder if I might ask a couple more questions?

THE COMMISSIONER: Yes.

RE-DIRECT EXAMINATION BY MR. PEACOCK:

Q Mr. Schlegel, that knife in question, do you have any idea what time had elapsed from the time the yelling started in the West Wing until you got there?

A Well, from what they tell me, they phoned me around 10:30 by the time I got there it was 10:35, 10:40 they had roughly 40 minutes before I first got there.

Q What I am wondering about is why didn't you let this thing die down?

A Well, this is what I tried to explain, sir, if you let these things go and it gets out of hand it can go from one area to the next area which is the South Wing, it's fairly close from there to another area and then to another area and if you can control

one area then you avoid problems from another area.

Q Well, I take it that you felt that this had reached proportions that previously, call them grip sessions, had not reached?

A How did you say that, sir?

Q I'm not sure myself.

THE COMMISSIONER: Try again Mr. Peacock.

Q MR. PEACOCK: I take it that this was a little out of the ordinary, was it?

A Oh, yes.

Q Had you seen anything like this in the last few years?

A I had similar problems.

Q I see. Have you been able to quell them by removing the ring leaders?

A It sort of got out of hand a few times, they had broken the walls down and a few things like that and beat some of the inmates up.

Q And was this recently?

A Four years ago.

Q Now, you indicated in answer to Mr. Meurin that your prime concern was to get in there and get the inmates and get out as quickly as possible before anything could errupt, is that correct?

A Yes.

Q I would like you to answer this, why did you hit Sims in the hall?

A Well, because when I had ordered out of the Wing I said

"You are going to the block" and when he came out of the dormitory instead of proceeding straight down to the box he went to where these other three were so there were four there and it appeared like I was on my own, there were officers there but they were leaving it to me and when I went over to them I thought if the four of them jump me and before anybody could get in there they could give me a good working over before any other officers got there.

Q Did you knock him over when you hit him?

A No.

Q Did you put him up against the wall with his back against the wall?

A No.

Q Did you put him up against the wall with his front to the wall?

A No.

Q You say you hit him once on the arm?

A Once, yes.

Q Are you aware if he sought any medical treatment for his injuries?

A Speaking to the nurse and Mr. Walker that they had never been upstairs. I spoke to one of the inmates the next day.

Q Were you in Warden's Court when Sims came up the following morning?

A Yes.

Q Did Mr. Sims make any mention to you, to Warden Jackson or yourself that he had been struck by you the night before?

A No, he did not.

Q Did Mr. Sims say anything to you when you hit him on the arm with the billy in the hall?

A He said something to the effect that "What so and so you".

Q Tell us what he said?

A "What the hell are you picking on me for".

Q Did you answer him?

A No.

MR. PEACOCK: Those are all the questions that I have, thank you.

RE-CROSS EXAMINATION BY MR. LAING:

Q Mr. Commissioner, I have a few questions.

Mr. Schlegel, in answer to Mr. Meurin's question a few moments ago you said that Sims had been defiant, is that correct?

A He has been defiant, yes.

Q Did your evidence mean that Coljee made no complaint against Sims specifically on that occasion but [illegible] plained about Winters, is that correct?

A Coljee didn't say anything to me in reference to [illegible] or Winters or Spooner or Watson except that they were creating a lot of problems in the West Wing.

Q Okay. You saw Sims do nothing prior to [illegible]

the dormitory, is that correct?

A No, I didn't say that I had seen Sims --

Q I said you didn't see Sims involved in any sort of activity prior to going down and taking him out of bed?

A Right.

Q Okay. When you went down to take him out of bed did you tell him why he was being singled out and being removed out of there?

A He was one of the four that I was told was the trouble maker.

Q Did you tell him that?

A No.

Q You just told him to get out of bed because he was going out?

A Yes.

Q When he got into the hall did you tell him to get moving down the hall before you struck him?

A Yes, I did; "I told you to go to the block".

Q And simultaneously you struck him with the billy club?

A Yes.

Q So you didn't give him an opportunity to respond to your --

A Yes, I did.

Q So your evidence is that you told him and gave him time to react and then hit him?

A Yes.

Q You didn't hit him simultaneously?

A No, I told him to go to the block.

Q How far away were the other guards from the four inmates when you struck Mr. Sims?

A I really could not tell you. I could give you an approximate indication of how close they would be because of the area there.

Q How many steps away?

A From those inmates?

Q Yes?

A I suppose they would probably be five, six steps away, something like that.

Q But yet you felt in fear of your safety because you could be beaten up before they could help you?

A Yeah, that's right.

Q Even though they were five or six steps away?

A Right.

Q Now, how did Sims specifically show his defiance towards you or any other person in authority that evening?

A He didn't get out of bed when he was told to move.

Q Was that the only time?

A Yes.

MR. LAING: I have no further questions.

MR. PEACOCK: I hate to be popping up and down but I have one question.

THE COMMISSIONER: This is an inquiry

Mr. Peacock.

RE-DIRECT EXAMINATION BY MR. PEACOCK:

Q Mr. Schlegel, if you get into a situation where you are confronting an inmate in a dormitory or a hall or a cell block or whatever and you instruct the inmate to do something --

A Yes --

Q And if the inmate refuses to do it what alternatives do you have to force him to do it?

A In a normal situation -- what I mean by normal is if you don't have too many inmates around and if the time of the day is correct you can possibly bluff or something to that effect. This was a different situation.

There was tension all around there and if you don't move fast then it gets out of control and then what you do is you are in there and then it's too late so you have to act first and fast. I gave him his warning and he possibly should have known why, so that to me was warning enough..

Q If I gather correctly what you are saying is in a situation where you feel is explosive or you feel there is a high degree of tension you are telling us that the only alternative that you have if the person does not do what he is told is to use sufficient force to make him do it, is that correct?

A If I can see he is not going to move. Now, there would never have been any force used if I didn't think he was going to hit me when he come out of that bed.

Q Now, if an inmate in an ordinary circumstances in the middle of the day refuses to work or something like that?

A Yes.

Q And you wish him or compel him to work, what alternatives do you have, what means do you have to force him to do something that he is told to do?

A Well, maybe call another officer but usually we try to talk to the inmate, you know, talk him into going or something to that effect if that doesn't work and, well, we have another officer and then you are more or less compelled to escort him to the isolation cells.

MR. PEACOCK: Thank you.

THE COMMISSIONER: Mr. Stilwell?

MR. STILWELL: No questions.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Schlegel, you say you got to the Institution at approximately 10:30?

A Yes, shortly after that.

Q And where did you go when you went to the Institution, did you go directly to the West Wing?'

A I went to the guard room first and spoke to Mr. Cater

and from there Mr. Cater and myself went down to the West Wing.

Q Was Mr. Cater concerned at that time?

A Yes, he was, quite concerned.

Q And the two of you left the guard room and went to the West Wing?

A Yes.

Q Now, tell me, could you hear anything as you went towards the West Wing?

A When I got into the Wing, yes, they were still uttering threats and this sort of stuff, banging beds, boots.

Q Were boots being thrown at that time?

A I didn't see any boots but apparently they had been although I didn't see any boots when I came in.

Q I take it Mr. Schlegel that simply it was a matter of judgment based on experience to determine whether it's a just situation or if it is going to die down or going to flair up and continue?

A Yes, I figured I had the experience to judge a situation as it was at that time.

Q Now, you made this judgment after attending with the persons in the Wing?

A Yes, I went there first and seen how the situation was and that is when I called the three officers out because I didn't want anybody to get hurt, if they jumped us you fellas have had it.

Q Well, I don't want to lead you but I want your story,

you asked these three officers to come out because of your judgment of the situation?

A Yes.

Q Was that again, I know it's difficult to ask a person to describe it when other individuals weren't there, but what was it that you felt that these men were in danger, you felt that they were in danger?

A Mr. Harradence, you have three officers in the Wing situated at different places and there are people in there that are quite capable of getting things out of hand and if they take one officer as a hostage sort of thing then I don't know how I can handle the situation at that time.

Q Well, in your opinion were these three men exposed to being taken as hostages?

A Yes.

Q And I have to take it from that also that in your opinion you felt that the move was such that they might be taken as hostages?

A I was surprised that they weren't at that time.

Q Now then, after you got them out were you then advised as to who the ring leaders were?

A I asked the officer in the West Wing.

Q Was that Mr. Dewar?

A Yes.

Q Did he tell you?

A Yes, he did, he gave four names.

Q He gave you four names?

A Yes.

Q Did he also --

A Four names specifically and the beds that they were in.

Q The bed numbers?

A Yes, he gave me the bed numbers.

Q Now, I will ask you this, with respect to Sims, what did you know about him prior to that evening?

A Well, I know a little bit about his record, the type of person he is and we had him in Warden's Court several times so I knew what I was dealing with.

Q Mr. Schlegel, do you consider him dangerous?

A I would say so, yes.

Q The reason I asked you is I observed him here, he is 17 years of age?

A Yes.

Q And a rather slender built?

A Yes.

Q You still consider him dangerous?

A Yes, I do.

Q Why?

A Well, I have to go back to his record.

Q Let's hear it?

A He has one charge of having a bayonet, one charge of having a knife, one charge of uttering a verbal threat, one charge of forcefully seizing a person, those are

four charges along with these other charges on this day.

Q Excuse me, are these charges relating to internal --

A No.

Q Since he has been in the Institute --

A Since he has been in the Institution he has had four violations. The first violation he used another inmates canteen card, proporting that he was that person.

He was fighting in the dining room with another inmate. He refused to work, he told one of the kitchen officers to go so and so and the other offence was of this incident in the West Wing.

Q I see. Well, now, when you went down there you were armed with the billy club?

A Yes.

Q Mr. Schlegel, I handled that billy club for the first time and that club is capable of breaking a man's arm, is it not?

A Yes, I believe it could.

Q Now, you say you struck him three times, were these three blows were they spaced or were they a flury?

A More or less of a flury.

Q Were they then administered in order to prevent what you anticipated that might be an attack on you?

A Yes, they were, I thought Sims might crack me in the

face with his right arm and I hit him on the soft part of his arm.

Q Is that where the blows landed?

A Yes, they did.

Q And after that he then was on his way?

A Yes.

Q Now then when you struck him again in the corridor, in answer to a question of counsel for the inmate, you stated that you gave him time to react?

A Yes, I did.

Q How did he react or did he not react?

A Well, it appeared to me that he more or less stayed with the other three there and stayed in their protection more or less, amongst his own group.

Q Mr. Schiegel, the dormitory consisting of some 90 people it has been described by one correctional officer as a snake pit, what is your view on it?

A It is.

Q Can you tell me why a dormitory of that size would be maintained in an Institution such as Spy Hill?

A Well, we have a mixture of personnel in there, young and old, Indians and whites, committing many many crimes and many many types and apparently in my view it is -- at least my own view is that it was built that way in the first place for economy, it holds 85 or 86 people.

Q Cheaper than the cell block, is it?

A Yes.

Q Have any complaints with respect to that dormitory been registerred with the authorities in Edmonton?

A I think quite a few.

Q Would you be more specific?

A Well.

Q If you can?

A Well, we have had specifically, had several inmates that have been beat up by other inmates however they will not tell us who these inmates are for fear of reprisal.

Q That is understandable.

A Kicked in the eye or something like that and we have had several to that effect, that way, and we never find out until it's too late, they wouldn't tell us, they are afraid to tell us.

Q That's understandable, is it not?

A Absolutely. I am very reluctant to give out names because some of the people are still there.

Q For their own protection?

A Yes, but this is what takes place.

Q That is almost self evidence. Then you have made complaints about this kind of accomodation to the authorities in Edmonton?

A Not myself specifically but there have been complaints made.

Q How are those complaints made?

Q Might they be disciplined by the other inmates?

A They definitely would.

Q Isn't a dorm an ideal place for that dicipline?

A Yes, it is.

Q Well, certain experienced officers like yourself do not approve of these dormitories?

A No.

Q I am concerned that representation was not made very strongly to the authorities in Edmonton?

A I think they have been made fairly strongly, sir, but apparently they don't seem to realize our situation in there, we have people -- as far as I can see in Edmonton they have never been into an Institution and do not know what we have to contend with every day.

Q And are these the people that have the, shall we say, with respect to economy?

A Yes.

Q And you are telling me that this dormitory is there because of economy, is that right?

A That is my feeling, sir.

Q It would seem to me and I am asking for your opinion as an experienced officer, a dormitory will inevitably lead to trouble?

A Definitely, I have seen this so many times. The only way you can control a dormitory is if you don't have more than 16 or 20 men plus you must weed them out.

A I imagine by letter or telex.

Q Made by the senior personnel?

A Yes.

Q Of the Institution?

A Yes.

Q What has been the reaction?

A Well, there doesn't seem to have been much of a reaction. We never seem to have enough staff.

Q I will come to the staff problem in a moment but right now I am dealing with the physical layout of these dormitories?

A There are 14 officers on duty, should have been on duty under a normal situation but however there was four, I don't know, four to five of those officers were doing something else, were doing something else that had taken place, they were not at the Institution.

Q I will come to the personnel problem in a moment but you have mentioned fear of reprisal by certain inmates who were not taking part in the demonstration?

A Yes.

Q And I take it that the dormitory would indeed be ideal for ring leaders or those who insight to simply enforce their will or make it very difficult for those around them not to participate?

A Well, they do. If you have inmates that have the power to force the others to participate.

If certain types of inmates should not go into a dormitory, an old alcoholic, yes, you can hold 20 of those in a dormitory and have no problems. You can even hold probably 20 of the older Indian fellows with no problem but nowadays we have so many young fellows going into the Institutions, 80%, we have real problems because the younger fellows are harder to handle and harder to manage.

Q But that is basic, isn't it?

A It definitely is.

Q Now then, with respect to -- you know what I mean by the term skinner?

A Yes.

Q Would they be placed in a dormitory?

A They could possibly be there if he is charged -- if his charge was that charge, no we would avoid it but our situation is that a man can be a skinner and we may not know it at the time because he might be charged with another offence and could be in there.

Q But there is a telegram that the inmates know before you do, is that correct?

A Yes, they definitely know before we do.

Q Isn't he in physical danger?

A Yes, he is.

Q I see. Anything arising out of that, gentlemen?

MR. PEACOCK: I have none.

THE COMMISSIONER: Thank you Mr. Schlegel.

THE WITNESS: Yes.

THE COMMISSIONER: Do you wish a break?

MR. STILWELL: Mr. Commissioner, you probably haven't been reading the newspapers lately as I have not because I have been out of town but there has been discussion about having some of the head people of the Corrections Branch brought down here and appear here, that the director of Corrections should be subpoenad and I would ask you to consider whether you should instruct your counsel to take that step.

THE COMMISSIONER: I will give it very serious consideration Mr. Stilwell.

MR. PEACOCK: If I can assist, Mr. Commissioner, that I have endeavoured to make it clear that we are dealing here with some extremely wide terms of reference as you are aware Mr. Commissioner you are not only empowered but compelled to inquire into alleged excessive use of force in the Institute on July 17th and any other similar instance that should come to your attention during your inquiry and as I have advised the inquiry we have, I believe, five separate instances and we are now finishing evidence on the first one and we have four more to go and I have also advised the inquiry on many occasions what I thought should be the sixth stage organised to the

extent that there will be general questions which arise from all of these incidences and I think we can assure Mr. Stilwell if the Director of Corrections or anyone else from the Department responsible has something relevant which can be added we will certainly bring him down and I think we might have to do so.

THE COMMISSIONER: Mr. Peacock, I am interested in the originasion and continuation of these dormitories, I can also say this as of course you have pointed out the question is excessive use of force and certainly whether or not force was excessive will depend on circumstances that will be brought out.

(Hearing adjourned)

(Hearing resumes)

MR. PEACOCK: Call Allen Merriam.

THE CLERK: Your full name?

THE WITNESS: Allen Merriam.

THE CLERK: Would you spell your last name?

THE WITNESS: M-E-R-R-I-A-M.

ALLEN MERRIAM, having first been duly sworn, examined by Mr. Peacock, testified as follows;

MR. MEURIN: Mr. Commissioner, in the course of Mr. Merriam's evidence it may become evident that he has received information from certain

inmates in view of your previous ruling that the names of those particular inmates need not be disclosed and I would ask that you make a similar ruling. This applies to inmates presently in custody at the Correctional Institute and there is some fear of their safety.

THE COMMISSIONER: Mr. Meurin, if the judgment of this officer the exposure of the names of inmates would jeopardise their physical well being he will not be required to name them.

MR. MEURIN: Thank you.

EXAMINATION BY MR. PEACOCK:

Q Mr. Merriam, you are employed at the Calgary Correctional Institute?

A Yes sir.

Q How long have you been there?

A Going on my 12th year, sir.

Q And have you been employed in corrections elsewhere?

A No sir.

Q So you started with the Calgary Correctional Institute?

A Yes.

Q And you have been there about 12 years?

A Going to 12 years, starting my 12th year, sir.

Q What is your official status?

A Assistant Deputy Warden.

Q And you are one of the four Assistant Deputy Wardens in the Institute?

A Yes.

Q Were you so employed on July 17th, 1973?

A Yes, I was.

Q What shift were you appointed to that day?

A 4:00 P.M until 12.

Q And you were on shift starting at 4:00 P.M. until midnight?

A That is right.

Q Now, during the evening problems arose that took you out of the Institute, is that correct?

A That's right, sir.

Q Those problems related to the paging of four inmates to the Foothills Hospital?

A Yes sir.

Q Did you accompany them to the hospital?

A I followed them in the staff car, sir.

Q I see. What time did you return to the Institute?

A I would say approximately 10:45, 10:40, 10:45.

Q Can you tell us what happened when you returned to the Institute?

A I proceeded down the West Wing and Mr. Schlegel and officers were going into the Wing at the time.

Q Why did you go to the West Wing?

A Because I was informed over the radio at the hospital they were having problems in the West Wing.

Q Do you know who was on the radio that informed you of this?

A Mr. Cater.

Q And then when you returned around 10:45 you went directly to the West Wing?

A That is right.

Q And you met Mr. Schlegel?

A They were just going into the Wing.

Q Do you know how many officers were going into the Wing?

A I don't know off hand, sir.

Q What did you do and what did you observe and what did you hear?

A I walked into the Wing and I stood beside the urinal and Mr. Cater was on the west side with a gas gun and the other officers were getting four inmates out of their beds.

Q Now, when you say you stood beside the urinal, is that at the front of the West Wing?

A In front of the cubicle.

Q You would be on the east side of the West Wing, would you?

A No, I would say I was in the centre of the West Wing.

Q Facing, looking down the West Wing?

A More or less looking at Mr. Cater because he was on the west side by himself.

Q And what happened, what did you observe and what did you hear?

A I observed four inmates coming out, being taken out of bed and sent down to the cubicle of the West Wing.

Q When you saw these four inmates being taken out of their beds did you observe any of them being struck?

A No sir, I did not.

Q Why was that?

A Because I was not close enough, as I said, I wasn't paying too much attention to them but I was paying more attention to Mr. Cater.

Q Do you know what Mr. Cater's function was in there?

A He was the Chief Guard at that time.

Q What was he doing in the Wing?

A He was on the west side with a gas gun, sir.

Q Did you observe these four inmates that were taken out of bed being brought to the front?

A Yes, I saw them coming down the east side of the West Wing.

Q Did the four of them come together or one at a time or what do you recall seeing?

A I think they were -- well, like, following each other down, let's put it that way.

Q And the guards that got them out of bed were they following them?

A They were a ways behind them, yes.

Q And I take it that they went passed you and went out the door through the opened grill gate?

A Yes.

Q And out into the hall?

A Yes.

Q Did you follow them out or did you remain in the Wing?

A I remained in the Wing for a few minutes and then I followed them out.

Q When you got out into the hall were the inmates out in the hall?

A Yes sir, the four of them.

Q What were they doing?

A Mr. Schlegel he gave one a push, I think he had the billy in his right hand and gave him a push and told him to get moving and then we followed them into the segregation.

Q Did you see what the inmates were doing before Mr. Schlegel gave the one inmate a push?

A Well, they were asking why they were going to the segregation.

Q Do you recall if they were answered?

A Mr. Schlegel just told them to get moving.

Q And you say that you saw him push one inmate apparently with his billy?

A He had the billy in his right hand.

Q Did you see which inmate that was?

A No, everything was in confusion.

Q Were the other guards around Mr. Schlegel at this time?

A I couldn't say who was around him at that time, sir.

Q They were in the vicinity where the other guards were?

A One or two but no more.

Q I see. Mr. Schlegel told them to get moving what happened

next?

A They started to run down the hall.

Q Did you follow them?

A We couldn't keep up to them because they were going so fast but we did follow them.

Q How far did you follow them, did you follow them down to the cell block?

A Yes.

Q And you were there when the cell block gates were opened?

A I was behind them when it was opened.

Q You were trying to keep up to them, were you?

A I'm a pretty old man and I could not keep up with them.

Q Now, when they got down the stairs to the isolation area who was present when these inmates were asked to strip?

A I was at the bottom of the stairs then.

Q Were you issuing any commands at that time?

A No sir.

Q Who was issuing the commands?

A Mr. Schlegel was in charge, sir.

Q I take it that you were the person, the senior officer in charge when you started your shift but then it was taken over by Mr. Schlegel while you were away?

A That's correct, sir.

Q And when you got back you let Mr. Schlegel take command of the situation?

A He started it and I just went down to the segregation with them when they were put in there.

Q You saw the inmates strip, did you observe them after going into the isolation area and into the cells themselves?

A No, I couldn't see them from where I was standing on the steps.

Q Alright. From the time you saw Mr. Schlegel push an inmate in the hallway until these inmates were placed into their isolation cells did you see any of the inmates struck?

A No sir, I did not.

Q Did you see any of the inmates kicked?

A No, sir, I did not.

Q Did you strike or kick any of the inmates?

A No sir, I did not.

Q Are you aware that inmates were all placed in the one cell without any clothes?

A I was told after, yes. That is the normal procedure when we take them downstairs is to strip them.

Q Why is that?

A For the simple reason if they have knives, razor blades or anything on them that could do damage to themselves.

Q I see.

A We strip them and they go in and the officer in charge of the cell block issues their clothing back to them a[illegible]

Q Is there any specific time when this clothing is issued to them?

A Not that I know of, just when the officer gets time to do it.

THE COMMISSIONER: Before Wardens Court, I presume?

A Oh, yes, they get their clothing before they go to Warden's Court, yes.

Q MR. PEACOCK: Are you aware that night that there was no mattress left in the one cell that these inmates were put into?

A No, I wasn't, sir. I didn't have a look into the cell.

Q Who is responsible for making a decision as to what equipment is in there?

A Well, the cell is set up at all times and if there was a mattress in there someone had taken it out, I don't know who.

MR. PEACOCK: I see. Those are all the questions that I have, would you please answer counsel.

THE COMMISSIONER: Mr. Stilwell?

MR. STILWELL: No questions.

CROSS EXAMINATION BY MR. LAING:

Q Mr. Merriam, when you saw the four inmates standing out in the hallway outside of the west dormitory were they standing up against the wall?

A Near the wall, sir.

Q When you first saw Mr. Schlegel there was he telling Mr. Sims to move along?

A I don't know who it was, sir, he gave him a push with his billy in his right hand and told him to get moving. I cannot tell you who the inmate was.

Q Did he tell him to move along and pushed him with the billy at about the same time?

A That's right, yes. He pushed him with his billy and told him to get moving at the same time.

Q That was the first thing you saw as you came out of the West Dormitory?

A That's right, sir,

Q Did you have anything to do with the guards to issuing weapons?

A No sir, I did not.

Q Do you know who gave them weapons?

A No sir, I do not. I was at the Foothills Hospital at that time.

MR. LAING: I have no further questions.

THE COMMISSIONER: Mr. Meurin?

CROSS EXAMINATION BY MR. MEURIN:

Q Sir, was there any incidences in the jail involving any of the officers on the 16th of July?

A Not that I know of, not on the 16th of July.

Q I take it, sir, that you would be the only officer that

would have been involved in both instances on the night of the 17th of July, the one at the General Hospital involving four other inmates and the four that were removed --

A The only senior officer involved in both of them.

Q To your knowledge was there any communication between the officers between the two groups?

A Not that I know of. I was informed by the Chief Guard that they were having problems in the West Wing and I told him that I would return at once.

Q And you were the first one back --

A From the hospital they didn't get back until sometime later on.

Q And the other officers returned --

A That's right, sir.

MR. MEURIN: I have no further questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Merriam, I can understand the realism of removing the clothes for a search before the prisoners are put in the cells in the segregation cells, do you agree with me sir that it would not take long to search a pair of shorts?

A That's right, sir.

Q And those shorts were not returned, were they?

A I couldn't say, sir, we didn't wait, we went back to the West Wing, sir.

Q Don't you know as a matter of fact that the shorts were not returned when they were placed in the cells?

A They should have been returned but I couldn't tell you whether they were or not.

Q In other words what I want to find out is it's not part of the treatment when they are placed in those cells?

A For a few minutes, yes, when they first go down.

Q I am not concerned --

A They are issued their clothing back.

Q As soon as the search is completed?

A That's the standard procedure.

Q That is the standard procedure, is it?

A Yes.

THE COMMISSIONER: Fine. Whether it was done on this occasion you don't know?

A I couldn't tell you.

THE COMMISSIONER: Any other questions?

MR. PEACOCK: Thank you.

(Witness retires)

MR. PEACOCK: Charles Boughton.

THE CLERK: Your full name?

THE WITNESS: Charles Albert Boughton.

THE CLERK: How do you spell your last name?

THE WITNESS: B-O-U-G-H-T-O-N.

CHARLES ALBERT BOUGHTON,

having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Boughton, you are employed at the Calgary Correctional Institute?

A Yes sir.

Q And you are a Correction Officer too?

A Yes sir.

Q How long have you been employed there?

A 15 years, sir.

Q And you were so employed on July 17th, 1973?

A Yes sir.

Q What shift were you on that day?

A Midnight shift, 12 midnight until 8 in the morning.

Q I see. So you would have worked until 8:00 o'clock in the morning of the 17th and would come back at midnight that night?

A Yes sir.

Q Did you come back at midnight?

A No, I did not.

Q What time did you get back?

A 10:30 in the evening.

Q Why did you come back at that time?

A I was called in by Mr. Cater.

Q And where were you, at your home?

A Yes sir.

Q What did Mr. Cater say over the phone?

A He asked me if I could report to the jail that they were having trouble in the West Wing.

Q And you did report?

A Yes.

Q What time did you get there?

A 10:30, sir.

Q You were called a little before 10:30?

A Yes.

Q Where do you live?

A In Varsity Acres.

Q What does it take you, five, ten or fifteen minutes?

A About 12 minutes, sir.

Q Now, when you got there can you tell us what you did?

A I went directly past the guard room to the West Wing.

Q And what did you find when you got to the West Wing?

A I went to the guards cubicle and met with Mr. Schlegel, Mr. Dewar, Mr. Coljee and we talked over what was going on in the Wing.

Q When you there were any of the personnel of the Institute in the dormitory itself or were they all around the cubicle?

A Around the cubicle.

Q Was the grill gate to the dormitory closed?

A Yes, it was, when I got there.

Q When you spoke to Mr. Schlegel, Mr. Dewar and Mr. Coljee?

A Yes.

Q Do you recall if there was anyone else there at that time?

A Mr. Cater, I can remember Mr. Cater.

Q Can you tell us what was said in your discussions?

A They just explained what the situation was and the problems they had and thought what we should do to quiet them down.

Q At the time you got there did you observe any noise coming from the West Wing?

A There was quite a bit of hollering and cursing and also some banging going on there.

Q What was the decission reached in this discussion?

A We would go down and take the four ring leaders which Mr. Dewar told us and we proceeded to do so.

Q I see. Now, before you proceeded to go in and get the four ring leaders did anyone advise you what you should do when you got there?

A No sir.

Q How many of you went in?

A I can only remember three of us going in.

Q Could there have been more?

A There could have been more.

Q What did you do when you started in?

A Went straight down to the number 39 bed.

Q Do you know who was in that bed?

A Winters, I presume it was Winters.

Q I see. Did you know Winters from before?

A I have seen him, I didn't know him that well.

Q So you went directly to bed 39?

A Yes.

Q Why did you go there and not to bed 40?

A Mr. Schlegel went to the first bed and I was right behind him and I took it.

Q When you say the first one does that mean the farthers one from the guard's cubicle?

A Yes.

Q And then you went to the next one?

A Yes.

Q I guess the reason you went to the next one was because you were right behind Mr. Schlegel?

A That's right, sir.

Q Do you know who was behind you?

A No, I don't, sir.

Q What did you do?

A I hollered "Let's move it" and when he didn't I grabbed him by the arm and pulled him out.

Q And this is Mr. Winters?

A Yes.

Q And did you observe what Mr. Schlegel was doing?

A Not at the time, I was too busy with Winters.

Q So you told him to get moving, did you tell him where you were taking him?

A No, I did not.

Q You just said "Come on let's get moving"?

A Yes.

Q Did you have any weapon with you?

A I had a billy stick.

Q When was that issued to you?

A Before I left the guards cubicle.

Q Who gave you the billy stick?

A Mr. Coljee.

Q What did you do with it, did you have the billy in your hand when you went down the wing?

A No, I had it in my pocket.

Q Which pocket?

A Front pocket.

Q Right hand side?

A Yes.

Q Now, when you told Winters to get out of bed you say he didn't, is that correct?

A He didn't move right away.

Q What did you do then?

A Well, then I grabbed him by the arm and pulled him out of the bed.

Q Were you beside the bed or at the end of it when you first asked Winters to get out of bed?

A I was near the end, just coming around the end.

Q When you pulled him out did you pull him/on to the floor?

A He stumbled but I don't think he fell.

Q Did he offer you any resistance at this time?

A No sir.

Q Did you have your billy in your pocket or in your hand?

A In my pocket.

Q Now, when you pulled him out of bed what did he do?

A I shoved him towards the hallway, towards the doorway,

Q Did he offer any resistance at that time?

A No.

Q What did he do after you shoved him towards the hallway?

A I don't know, I turned around to see what was going on behind me.

Q So that is the last you saw of Mr. Winters?

A That's right.

Q Now, when you turned around to see what was goin on behind you, what did you see?

A Mr. Schlegel was trying to get Mr. Sims out of his bed.

Q I see. Now, when you turned around to observe what was behind you was Sims still in bed?

A Yes.

Q And you had managed to tell Winters to get out of bed, pull him out of bed and send him on his way?

A Yes.

Q And you turned around and Mr. Schlegel was trying to get Sims out of bed?

A Yes.

Q What did you observe happening between the two of them?

A I could see Sims arms waving around and Mr. Schlegel trying to tell him to move and he wasn't moving very fast and so when his arms came by I grabbed it and helped him assist him out of bed.

Q Did you observe Mr. Schlegel strike Mr. Sims with a billy?

A Yes, I did, once.

Q Did you see where on Sims body he was struck?

A On the arm.

Q Do you know which arm?

A His right arm.

Q And were you able to tell how many times Mr. Schlegel struck Mr. Sims?

A No sir, I just seen the one blow.

Q I see. At this point you say Mr. Sims arms were flacking around?

A Yes.

Q And you grabbed one of them?

A I grabbed his arm as it came by.

Q Well, were you between Sims bed and Winters bed when you were getting Winters out of bed?

A Right, sir.

Q So this would have been right behind you?

A Yes.

Q Where was Mr. Schlegel?

A He was on the opposite side of the bed.

Q I see. So after you got Winters on his way you turned around and what did you do with respect to Sims?

A I assisted Mr. Schlegel to get him out.

Q How did you assist him?

A I grabbed him by the arm and pulled him.

Q Did he come out on your side?

A He went over the bottom end, sir.

Q I see. Did Mr. Schlegel have a hold of him in any way?

A Yes, he did.

Q By the other arm?

A Yes, by the other arm.

Q So you both pulled him up over the end of the bed?

A Yes.

Q Did he fall on the floor when he went over the end of the bed?

A I didn't notice him fall on the floor, he went over the end but I don't think he fell, I think he was running when he hit the floor, I don't think he fell.

Q When he landed on the floor and during this flury did you hear Sims say anything to you or Schlegel?

A Not that I can recollect, sir.

Q And when he got onto the floor what did he do?

A He headed up towards the door of the Wing.

Q I see. Did he move fairly rapidly or did he walk or how did he go?

A He was moving pretty fast, running up there.

Q Did you then follow Sims up?

A No sir.

Q What happened then?

A I stayed behind to assist Mr. Cater to quieten the rest down.

Q Mr. Cater, where was he?

A He was up near the end by the guards cubicle on the west

side.

Q I take it that by the time you got both Winters and Sims moving towards the front the other two inmates were already on their way?

A Yes sir.

Q You didn't have to help to get them out?

A No sir.

Q Did you then walk up to the front where you met Mr. Cater?

A Yes sir.

Q What did the two of you do then?

A Mr. Cater stood there and he told them that if anybody moves he is going to let them have it and then he told them anybody with clothes on to get them off and get into bed.

Q Did they do that?

A Yes, they moved and got their clothes off and things pretty well quietened down then.

Q Did it quieten down after that?

A Yes.

Q How long did you and Cater stay in the dormitory at the front?

A I would say about 15, 20 minutes.

Q And in that 15 or 20 minutes were the lights on or off?

A Well, one bank of lights down the east side, that's all.

Q And did they stay on until you left the dorm?

A Yes sir.

Q When you left the dormitory was there anyone yelling or threats or locker banging going on then?

A Not that I heard, sir.

Q What did you do when you got outside?

A Headed for the guard room.

Q And deposited your billy?

A Yes sir.

Q What did you do then?

A Then I prepared to take over to work my midnight shift.

Q Where were you stationed on your shift, your midnight shift?

A In the guard room, sir.

Q And after you got on duty at midnight in the guard room did you hear any further commotion from the West Wing?

A No sir, it quietened down pretty well.

Q I see. I take it you didn't see any activity with these four inmates in the hall after they were taken out of the West Wing?

A No, I did not, sir.

Q You saw Mr. Schlegel strike Mr. Sims only one time?

A Only the one time.

MR. PEACOCK: Those are all the questions that I have, answer counsel, please.

THE COMMISSIONER: Mr. Stilwell?

MR. STILWELL: No questions.

CROSS EXAMINATION BY MR. LAING?

Q You went to take Mr. Winters out of his bed, did he have his hands under the covers?

A Yes, he did, sir.

Q Did you ask him to get out of bed?

A Yes sir.

Q Did he move?

A No, at that time he did not.

Q Were you afraid that he might have something underneath the covers?

A I am always afraid of that, sir.

THE COMMISSIONER: What was that answer?

A I am always afraid when I go into something like that.

THE COMMISSIONER: I take it you mean on occasions such as this?

A Just under those occasions, yes.

Q MR. LANG: However you left the billy club in your pocket?

A Yes, it was still in my pocket.

Q And then when he didn't get up you took him by the arm and helped him out of bed?

A Yes.

Q And then sent him on his way down the dormitory and that is the last you saw of Mr. Winters?

A That's right, sir.

Q Now, prior to that point in time you heard some commotion

behind you between Mr. Schlegel and Mr. Sims, is that correct?

A Yes.

Q Had you heard any conversation between those two individuals?

A Not at that particular time.

Q If there had been conversation would you have noticed it?

A It's possible and possibly not.

Q Did you hear Mr. Schlegel say to Mr. Sims "Get out of bed and get going"?

A At the present, no.

Q So the first thing you saw when you turned around was Mr.Schlegel trying to pull Mr. Sims out of bed by the arm, is that right?

A That's right.

Q Now, was it before or after he started to pull him out of bed by the arm that he hit him withthe billy club?

A Well, when he got his arm he pulled him.

Q So that I can get the sequence straight Mr. Schlegel hit Mr. Sims on the arm and grabbed him by the arm and pulled him out, is that correct?

A That's right.

Q So there was the striking and then the two of you pulled him out and he went over the end of his bed?

A That's right.

Q And you say the strike was on the upper arm?

A Yes sir.

Q Did Sims say anything to Schlegel at that point?

A No, he hollered, that's all I heard, sir.

Q And your billy stick stayed in your pocket the whole time?

A That's right, sir.

Q You didn't feel under the circumstances to take it out?

A Not for me to use it, no.

Q Mr. Sims was moving along out of bed when you came along and there was no need to use force other than pulling him by the arm?

A Yes, that's right.

Q And you only saw Mr. Schlegel strike Mr.Sims once?

A That's right.

Q And Winters and Sims beds are next to one another?

A Yes sir.

Q Which bed is furthest away from the door, Sims or Winters when you tried to move these fellows out?

A Number 40 was Sims.

Q Sims was 40?

A Yes.

Q And you say it was Mr. Coljee that issued you the billy clubs?

A Right.

Q What had caught your attention as far as the exchange between Sims and Schlegel was concerned, what caused you to turn around?

A Well, the noise behind me.

Q Was there a specific noise?

A Pardon me?

Q Was there a specific noise or just confusion?

A The hollering and the banging of the bed.

Q Pardon me?

A The banging of the beds, the rustling of the bed and hollering.

Q But no specific conversation?

A No sir.

MR. LAING: I have no further questions, thank you. Excuse me, just before I sit down. You didn't see any more of these inmates after they left the dormitory?

A No, I didn't.

Q You stayed there for some 15 minutes after this?

A Right, sir.

Q The other guards that were in that area did all have billy sticks with them?

A I can't say, I was issued mine and that's all I know.

Q You don't know who else had one?

A No sir.

Q Did Mr. Schlegel have one?

A Mr. Schlegel had one, yes.

MR. LAING: Thank you.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: I have no questions.

THE COMMISSIONER: Mr. Peacock?

MR. PEACOCK: I have nothing further.unless you do, sir.

THE COMMISSIONER: No.

(Witness retires)

MR. PEACOCK: Thank you Mr. Boughton. Sir, I am beginning to have a problem with my schedule unfortunately we probably have time for one more witness that we told to go home until tomorrow morning so if we can adjourn until tomorrow morning we have two more witnesses and they should be very brief and I think that will end the specifics, the specific area of the evidence with respect to July 17th incident and we will then start evidence tomorrow morning on the second of the five incidences.

THE COMMISSIONER: Mr. Peacock, in view of the dining facilities here I wonder if it would be convenient to start at 1:30?

MR. PEACOCK: I would prefer that, sir.

THE COMMISSIONER: Mr. Stilwell?

MR. STILLWELL: Satisfactory.

MR. MEURIN: Satisfactory.

(Hearing adjourned)